

ESTTA Tracking number: **ESTTA750394**

Filing date: **06/06/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following parties oppose registration of the indicated application.

Opposers Information

Name	Barnes & Noble, Inc.
Granted to Date of previous extension	06/22/2016
Address	122 Fifth Avenue New York, NY 10011 UNITED STATES

Name	Barnes & Noble Booksellers, Inc.
Granted to Date of previous extension	06/22/2016
Address	122 Fifth Avenue New York, NY 10011 UNITED STATES

Attorney information	Todd Braverman, Esq. Pearl Cohen Zedek Latzer Baratz LLP 1500 Broadway, 12th Floor New York, NY 10036 UNITED STATES tm-uspto@pearlcohen.com
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Applicant Information

Application No	86725370	Publication date	02/23/2016
Opposition Filing Date	06/06/2016	Opposition Period Ends	06/22/2016
Applicant	Noble, Inc. 8216 Montgomery Blvd. NE Albuquerque, NM 87109 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. First Use: 2015/06/03 First Use In Commerce: 2015/06/03

All goods and services in the class are opposed, namely: On-line retail store services featuring a wide variety of consumer goods of others; On-line retail store services featuring downloadable computer, video and electronic games; On-line retail store services featuring new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; promoting the sale of goods of others through the administration of a customer incentive award and discount program featuring discounts on new and used computer, video and electronic games, video game consoles, hand-held

video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; Operation of gaming equipment and gaming systems in the gambling industry for others for business purposes; Retail consignment stores featuring new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; promoting the sale of goods of others through the administration of a customer incentive award and discount program featuring discounts on new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; Retail consignment stores in the field of new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; promoting the sale of goods of others through the administration of a customer incentive award and discount program featuring discounts on new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; Retail store services featuring new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; promoting the sale of goods of others through the administration of a customer incentive award and discount program featuring discounts on new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; Retail stores featuring new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; promoting the sale of goods of others through the administration of a customer incentive award and discount program featuring discounts on new and used computer, video and electronic games, video game consoles, hand-held video game players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures


Grounds for Opposition


Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)
Dilution by tarnishment	Trademark Act Sections 2 and 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1138704	Application Date	04/10/1978
Registration Date	08/12/1980	Foreign Priority Date	NONE
Word Mark	BARNES & NOBLE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1975/03/00 First Use In Commerce: 1975/03/00 BOOK DISTRIBUTORSHIP SERVICES AND RETAIL BOOK STORE SERVICES		

U.S. Registration	2360296	Application Date	08/24/1999
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No.			
Registration Date	06/20/2000	Foreign Priority Date	NONE
Word Mark	BN.COM		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 1999/04/26 First Use In Commerce: 1999/04/26 Online retail bookstore services, featuring, among other things, books, magazines, software and general giftware items</p> <p>Class 041. First use: First Use: 1999/04/26 First Use In Commerce: 1999/04/26 Entertainment in the nature of providing online book reviews, interviews with authors, personal recommendations, gift ideas, and bestseller lists, all related to books, magazines, and general giftware items</p> <p>Class 042. First use: First Use: 1999/04/26 First Use In Commerce: 1999/04/26 Computer services, namely providing a web site of information about software</p>		


U.S. Registration No.	2290269	Application Date	10/30/1998
Registration Date	11/02/1999	Foreign Priority Date	NONE
Word Mark	BARNESANDNOBLE.COM		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 1997/05/13 First Use In Commerce: 1997/05/13 Online retail bookstore services, featuring, among other things, books, magazines, software and general giftware items</p> <p>Class 041. First use: First Use: 1997/05/13 First Use In Commerce: 1997/05/13 Entertainment in the nature of providing online book reviews, interviews with authors, personal recommendations, gift ideas, and bestseller lists, all related to books, magazines, and general giftware items</p> <p>Class 042. First use: First Use: 1997/05/13 First Use In Commerce: 1997/05/13 Computer services, namely, providing a web site of information about software</p>		


U.S. Registration No.	2512356	Application Date	10/17/2000
Registration Date	11/27/2001	Foreign Priority	NONE

		Date	
Word Mark	BARNES & NOBLE.COM		
Design Mark	BARNES & NOBLE.COM		
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 2000/02/08 First Use In Commerce: 2000/02/08 ONLINE RETAIL BOOKSTORE SERVICES, FEATURING, AMONG OTHER THINGS, BOOKS, MAGAZINES, SOFTWARE, COMPACT DISCS, AUDIO AND VIDEO CASSETTES, DIGITAL VIDEO DISCS, POSTERS AND GENERAL GIFTWARE ITEMS</p> <p>Class 041. First use: First Use: 2000/02/08 First Use In Commerce: 2000/02/08 ENTERTAINMENT IN THE NATURE OF PROVIDING ONLINE BOOK REVIEWS, INTERVIEWS WITH AUTHORS, PERSONAL RECOMMENDATIONS, GIFT IDEAS, AND BESTSELLER LISTS, ALL RELATED TO BOOKS, MAGAZINES, SOFTWARE, MUSIC AND GENERAL GIFTWARE ITEMS; EDUCATIONAL SERVICES, NAMELY, PROVIDING INTERACTIVE EDUCATIONAL CLASSES, SEMINARS, CONFERENCES, LECTURES AND WORKSHOPS IN THE FIELDS OF K-12, POST-SECONDARY, POST-GRADUATE, PROFESSIONAL, VOCATIONAL, WORKPLACE AND CONTINUING EDUCATION AND DISTRIBUTING COURSE MATERIALS IN CONNECTION THEREWITH, VIA A GLOBAL COMPUTER INFORMATION NETWORK</p> <p>Class 042. First use: First Use: 2000/02/08 First Use In Commerce: 2000/02/08 COMPUTER SERVICES, NAMELY, PROVIDING A WEB SITE OF INFORMATION ABOUT SOFTWARE</p>		

U.S. Registration No.	3848163	Application Date	08/25/2007
Registration Date	09/14/2010	Foreign Priority Date	NONE
Word Mark	BARNES & NOBLE		
Design Mark	BARNES & NOBLE		
Description of Mark	The mark consists of the words "BARNES" and "NOBLE" in green with an ampersand in khaki.		
Goods/Services	<p>Class 035. First use: First Use: 2007/08/07 First Use In Commerce: 2007/08/07 retail and online retail bookstore services, featuring, among other things, books, text-books, used books, used text-books, magazines, compact discs, audio and video cassettes, digital video discs, computer software, computer and video games, posters, stationery, school supplies, food, beverages and general giftware items; providing best seller lists and personal recommendations and gift ideas concerning books, magazines, music, software and general giftware</p> <p>Class 041. First use: First Use: 2007/08/07 First Use In Commerce: 2007/08/07 entertainment in the nature of providing online book reviews and interviews with authors; educational services, namely, providing interactive educational classes, seminars, conferences, lectures and workshops in the fields of k-12, post-secondary, post-graduate, professional, vocational, workplace and continuing education and distributing course materials in connection therewith, via a global computer information network</p>		

	Class 042. First use: First Use: 2007/08/07 First Use In Commerce: 2007/08/07 providing online reviews and personal recommendations on software
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U.S. Registration No.	3864808	Application Date	08/25/2007
Registration Date	10/19/2010	Foreign Priority Date	NONE
Word Mark	BARNES & NOBLE BOOKSELLERS		
Design Mark			
Description of Mark	The mark consists of the words "BARNES" and "NOBLE" in green with the word "BOOKSELLERS" and an ampersand in khaki.		
Goods/Services	<p>Class 035. First use: First Use: 2007/08/07 First Use In Commerce: 2007/08/07 retail and online retail bookstore services, featuring, among other things, books, text-books, used books, used text-books, magazines, compact discs, audio and video cassettes, digital video discs, computer software, computer and video games, posters, stationery, school supplies, food, beverages and general giftware items; providing best seller lists and personal recommendations and gift ideas concerning books, magazines, music, software and general giftware</p> <p>Class 041. First use: First Use: 2007/08/07 First Use In Commerce: 2007/08/07 entertainment in the nature of providing online book reviews and interviews with authors; educational services, namely, providing interactive educational classes, seminars, conferences, lectures and workshops in the fields of k-12, post-secondary, post-graduate, professional, vocational, workplace and continuing education and distributing course materials in connection therewith, via a global computer information network</p> <p>Class 042. First use: First Use: 2007/08/07 First Use In Commerce: 2007/08/07 providing online reviews and personal recommendations on software</p>		

U.S. Registration No.	4319847	Application Date	03/08/2012
Registration Date	04/16/2013	Foreign Priority Date	NONE
Word Mark	BARNES & NOBLE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2009/10/29 First Use In Commerce: 2009/10/29		


	<p>Downloadable electronic and digital publications in the nature of fiction and non-fiction books, audio books, children's books, magazines, newspapers, journals, periodicals, manuals, graphic novels, comics, picture books, reference magazines, study guides and test preparation books, and guidebooks on a variety of topics, namely, teen fiction, horror and suspense, mystery and crime, music, movies, television, popular culture, poetry, romance, school life, science fiction and fantasy, thrillers and westerns, African Americans, antiques and collectibles, art, architecture and photography, bibles and bible studies, biography, business and personal finances, Christianity, computers and technology, cookbooks, food and wine, crafts and hobbies, education and teaching, engineering, English, entertainment news, foreign languages, board games, computer games and video games, gay and lesbian, health, diet and fitness, history, home and garden, humor, Judaism and Judaica, law, medical diseases and medicine, military history, new age and spirituality, parenting and family, pets, philosophy, political and current events, psychology and psychotherapy, religion, science and nature, self-help and self improvement, sex and relationships, social sciences, sports and outdoor adventures, travel, true crime, weddings and women's studies; portable electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers for reading, displaying, receiving, purchasing, sharing, lending, accessing and storing downloadable electronic publications, namely, books, e-books, magazines, newspapers, text, images, digital web site content and digital media, namely, digital audio, music, digital video and computer, video and mobile computer games and applications, all through wired and wireless Internet access, accessories therefor and instructional manuals, sold as a unit; computer software for displaying, receiving, reading, purchasing, accessing and storing downloadable electronic publications, syncing electronic publications with portable electronic apparatus, loaning and sharing electronic publications with third parties and sampling electronic publications; downloadable computer software for displaying, receiving, reading and storing downloadable electronic publications and syncing electronic publications with portable electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers, loaning and sharing electronic publications with third parties and sampling electronic publications; computer software for use in reading, displaying, purchasing, sharing, lending and accessing electronic publications and digital media featuring books, newspapers, magazines, periodicals, digital images, web sites, music, games and other digital entertainment, and instructional manuals, sold as a unit; downloadable computer software for use in reading, displaying, purchasing, sharing, lending and accessing electronic publications and digital media featuring books, newspapers, magazines, digital images, web sites, music, games and other digital entertainment, and instructional manuals, sold as a unit; downloadable MP3 files, MP3 recordings, on-line discussion boards, webcasts, webinars and podcasts featuring music and news broadcasts; protective covers and cases for portable electronic book readers and portable handheld digital electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers; leather protective covers and cases for portable electronic book readers and portable handheld digital electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers; silicone, fabric and plastic protective sleeves and skins for portable electronic book readers and portable handheld digital electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers; carrying cases, holders, protective cases and stands featuring power supply connectors, adaptors, speakers and battery charging devices, specially adapted for use with handheld digital electronic devices; batteries, rechargeable electric batteries and battery chargers; power supplies and chargers for portable electronic apparatus; power supplies and chargers for portable electronic apparatus for use in vehicles; clear protective covers specially adapted for personal electronic devices; usb cables; downloadable music and electronic computer games and video games and applications via the internet and wireless devices; downloadable computer software and applications for reading, purchasing, stor-</p>
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	<p>ing and sharing books and digital content, including relating to business, education, entertainment, finance, games, health and fitness, lifestyle, medical, music, navigation, news, photography, productivity, reference, social networking, sports, travel, computer utilities, utilities and weather; bags for holding portable electronic apparatus, electronic book readers, handheld computers, mobile computers and tablet computers; digital web site content and digital media, namely, digital audio, music, digital video and computer, video and mobile computer games and applications, all through wired and wireless internet access and portable electronic apparatus</p> <p>Class 011. First use: First Use: 2009/10/29 First Use In Commerce: 2009/10/29 Book lights; combination book light and covers for portable electronic apparatus, electronic book readers, handheld computers, mobile computers and tablet computers</p> <p>Class 016. First use: First Use: 2003/06/01 First Use In Commerce: 2003/06/01 Publications in the nature of fiction and non-fiction books, children's books, magazines, newspapers, journals, periodicals, manuals, graphic novels, comics, picture books, reference magazines, study guides and test preparation books, and guidebooks on a variety of topics, namely, teen fiction, horror and suspense, mystery and crime, music, movies, television, popular culture, poetry, romance, school life, science fiction and fantasy, thrillers and westerns, African Americans, antiques and collectibles, art, architecture and photography, bibles and bible studies, biography, business and personal finances, Christianity, computers and technology, cookbooks, food and wine, crafts and hobbies, education and teaching, engineering, English, entertainment news, foreign languages, board games, computer games and video games, gay and lesbian, health, diet and fitness, history, home and garden, humor, Judaism and Judaica, law, medical diseases and medicine, military history, new age and spirituality, parenting and family, pets, philosophy, political and current events, psychology and psychotherapy, religion, science and nature, self-help and self-improvement, sex and relationships, social sciences, sports and outdoor adventures, travel, true crime, weddings and women's studies; stationery, posters, calendars, blank journals and personalized writing journals, notebooks, pens, pencils, photo albums and school supplies, namely, erasers, binders, presentation folders, notepads, writing paper pads, blank paper, ruled paper, loose-leaf paper, blank paper notebooks, markers, paper staplers, paper staple removers, desktop organizers, rubber stamps and ink pads, binder and paper clips, dispensers for adhesive tape for stationery or household purposes, pen and pencil holders, stationery cases and holders and file trays for desk accessories, book covers, book ends, book holders, book marks, book plates, paper weights for books, paper weights, push pins, paper clips, sketchbooks, scratch pads, address books, dry erase writing boards and writing surfaces, stick-on whiteboards and dry-erase boards</p> <p>Class 018. First use: First Use: 2009/10/29 First Use In Commerce: 2009/10/29 book bags, tote bags, school book bags</p> <p>Class 035. First use: First Use: 1975/12/31 First Use In Commerce: 1975/12/31 Book distributorship services; retail and online retail bookstore services, featuring books, text-books, used books, used text-books, magazines, compact discs, audio and video cassettes, digital video discs, computer software, computer and video games, posters, stationery, calendars, food, beverages, general giftware items and school supplies, namely, erasers, binders, presentation folders, notepads, writing paper pads, blank paper, ruled paper, loose-leaf paper, blank notebooks, markers, paper staplers, paper staple removers, desktop organizers, rubber stamps and ink pads, binder and paper clips, dispensers for adhesive tape for stationery or household purposes, pen and pencil holders, stationery cases and holders and file trays for desk accessories, book covers, book ends, book holders, book marks, book plates, paper weights for books, paper weights, push pins, paper clips, sketchbooks, scratch pads, address books, dry erase writing boards and writing surfaces, stick-on whiteboards and dry-erase</p>
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	<p>boards; providing best seller lists and personal recommendations and gift ideas concerning books, magazines, music, software and general giftware; retail and online retail store services featuring downloadable electronic publications, namely, books, electronic books, magazines, articles, stories, newspapers, text, images, discount, rebate and special offer coupons and vouchers, coupons, vouchers, digital web site content and digital media in the nature of books, electronic books, magazines, articles, stories, newspapers, text, images, mobile computer, tablet and electronic reader applications, music and movies through wired and wireless Internet access; retail and online retail store services featuring portable electronic book readers, mobile and tablet computers and accessories for portable electronic book readers, mobile and tablet computers, namely, carrying cases, leather carrying cases, silicone, fabric and plastic sleeves and skins for electronic book readers, rechargeable batteries, book lights, protective film covers and combination book light and cover; customer support services, namely, providing assistance with activation and use of electronic book readers, downloading of electronic publications and online customer accounts; providing a web site for users with specific informed recommendations of specific consumer products and services validated by the inputted preferences and social network of the user; providing a web site for users with exclusive personalized recommendations on books, electronic books, authors, book subject matter, book genres, music and digital media entertainment; promoting the goods and services of others by providing a website featuring discounts, coupons, rebates, vouchers and special offers on books, magazines, newspapers, mobile computer, tablet and electronic reader apparatus and applications, music, videos and electronic publications, namely, electronic books, magazines and newspapers; providing consumer information on electronic book reader apparatus, books, authors and electronic publications via a web site; providing consumer information and news on new book and electronic book releases, portable electronic book reader applications and features</p> <p>Class 038. First use: First Use: 2009/10/29 First Use In Commerce: 2009/10/29</p> <p>Providing one step online access to social networking sites on the internet and providing e-mail services, namely, access to email accounts; providing on-line forums, bulletin boards and chat rooms in the fields of books, electronic publications, magazines, newspapers, authors, publishing, electronic e-reader apparatus and related items; providing Internet access to downloads of books, magazines, newspapers and digital media on a variety of topics via a web site and providing wireless Internet access to in-store customers for browsing, sampling, loaning, sharing, lending, displaying, receiving, reading, downloading, purchasing and accessing electronic and digital publications in the nature and digital media and entertainment, namely, downloadable audio and video files featuring books, newspapers, magazines, journals, periodicals, manuals, guidebooks, digital images, music, games, computer games and computer applications, movies and television shows</p> <p>Class 041. First use: First Use: 1999/04/26 First Use In Commerce: 1999/04/26</p> <p>Online electronic publishing of books, electronic books, magazines, newspapers, text and images on a variety of topics, namely, graphic novels, comics, picture books, teen fiction, horror and suspense, mystery and crime, music, movies, television, entertainment and popular culture, poetry, romance, school life, science fiction and fantasy, thrillers and westerns, African Americans, antiques and collectibles, art, architecture and photography, bibles and bible studies, biography, business and personal finances, Christianity, computers and technology, cookbooks, food and wine, crafts and hobbies, education and teaching, engineering, English, entertainment, foreign languages, games, gay and lesbian, health, diet and fitness, history, home and garden, humor, Judaism and Judaica, law, medical and medicine, military history, new age and spirituality, parenting and family, pets, philosophy, political and current events, psychology and psychotherapy, reference, religion, science and nature, self-help and self improvement, sex and relationships, social sciences, sports and adventure, study guides and test preparation, travel, true crime, weddings and women's studies; lending</p>
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	<p>and sharing of electronic books and other electronic publications; providing a website featuring non-downloadable electronic publications, namely, book reviews, news and web articles on children's books, various current events topics, events that occurred on this date in history, humor and blogs on electronic book readers and books; providing information on education and entertainment information via a web site; online publications, namely, blogs on electronic book readers, books, electronic publications, authors, news, children's books and humor; providing a website featuring non-downloadable electronic publications, namely, books, newspapers, and magazines on a variety of topics, namely, graphic novels, comics, picture books, teen fiction, horror and suspense, mystery and crime, music, movies, television, entertainment and popular culture, poetry, romance, school life, science fiction and fantasy, thrillers and westerns, African Americans, antiques and collectibles, art, architecture and photography, bibles and bible studies, biography, business and personal finances, Christianity, computers and technology, cookbooks, food and wine, crafts and hobbies, education and teaching, engineering, English, entertainment, foreign languages, games, gay and lesbian, health, diet and fitness, history, home and garden, humor, Judaism and Judaica, law, medical and medicine, military history, new age and spirituality, parenting and family, pets, philosophy, political and current events, psychology and psychotherapy, reference, religion, science and nature, self-help and self improvement, sex and relationships, social sciences, sports and adventure, study guides and test preparation, travel, true crime, weddings and women's studies; providing non-downloadable prerecorded music all on-line via a global computer network; entertainment services, namely, providing temporary use of non-downloadable computer games in a variety of fields; Entertainment in the nature of providing online book reviews, personal recommendations and interviews with authors; providing a web site featuring information on books, book reviews, celebrities, publishing, entertainment news, book covers, book jacket designers, authors and book collectors; educational services, namely, providing interactive educational classes, seminars, conferences, lectures and workshops via a global computer information network in the fields of preschool, elementary, middle school, college and post-graduate subjects, namely, math, algebra, calculus, trigonometry, geometry, chemistry, organic chemistry, biology, microbiology, physics, astronomy, computer science, geology, history, psychology, philosophy, economics, film, health, art history, language, English, ESL, sign language, Spanish, French, Italian, German, Hebrew, Japanese, Chinese, Latin, law, anatomy, medicine, nursing, music, marketing, macroeconomics, accounting, mythology, women's studies, sociology, test preparation and SAT test preparation and distributing course materials in connection therewith; entertainment services, namely, an on-going multimedia series provided via a web site featuring information on books, book reviews and publishing and entertainment news, book covers, book jacket designers, authors and book collectors; book publishing services; online electronic publishing of e-books, magazines, newspapers, and other electronic publications in digital format</p> <p>Class 042. First use: First Use: 1999/04/26 First Use In Commerce: 1999/04/26</p> <p>Providing a website featuring non-downloadable computer software and applications for reading, purchasing, storing and sharing books and digital content on a variety of topics, namely, graphic novels, comics, picture books, teen fiction, horror and suspense, mystery and crime, music, movies, television, entertainment and popular culture, poetry, romance, school life, science fiction and fantasy, thrillers and westerns, African Americans, antiques and collectibles, art, architecture and photography, bibles and bible studies, biography, business and personal finances, Christianity, computers and technology, cookbooks, food and wine, crafts and hobbies, education and teaching, engineering, English, entertainment, foreign languages, games, gay and lesbian, health, diet and fitness, history, home and garden, humor, Judaism and Judaica, law, medical and medicine, military history, new age and spirituality, parenting and family, pets, philosophy, political and current events, psychology and psychotherapy, reference, religion, science and nature, self-help and self-improvement, sex and relation-</p>
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	<p>ships, social sciences, sports and adventure, study guides and test preparation, travel, true crime, weddings and women's studies; providing periodic updates regarding portable electronic book readers and portable electronic book reader software, firmware, features and operating systems to subscribers by means of electronic mail; providing a web-based service featuring technology that enables users to manage the production and publication of e-books, magazines, newspapers, and other electronic publications in digital format, hard and soft cover books and related digital content and offer them for sale to the general public; providing a web site featuring the ratings, reviews and recommendations on products and services for commercial purposes posted by users</p> <p>Class 045. First use: First Use: 2009/10/31 First Use In Commerce: 2009/10/31</p> <p>Providing social networking websites for entertainment purposes</p>
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U.S. Registration No.	2797319	Application Date	02/12/2003
Registration Date	12/23/2003	Foreign Priority Date	NONE
Word Mark	B&N		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 1975/03/00 First Use In Commerce: 1975/03/00</p> <p>retail and online retail bookstore services, featuring, among other things, books, magazines, compact discs, audio and video cassettes, digital video discs, posters, food, beverages and general giftware items</p>		

U.S. Registration No.	4589168	Application Date	03/08/2012
Registration Date	08/19/2014	Foreign Priority Date	NONE
Word Mark	B&N		

Design Mark	
Description of Mark	NONE
Goods/Services	<p>Class 009. First use: First Use: 2009/10/31 First Use In Commerce: 2009/10/31</p> <p>Downloadable electronic and digital publications in the nature of fiction and non-fiction books, audio books, children's books, magazines, newspapers, journals, periodicals, manuals, graphic novels, comics, picture books, reference magazines, study guides and test preparation books, and guidebooks on a variety of topics, namely, teen fiction, horror and suspense, mystery and crime, music, movies, television, popular culture, poetry, romance, school life, science fiction and fantasy, thrillers and westerns, African Americans, antiques and collectibles, art, architecture and photography, bibles and bible studies, biography, business and personal finances, Christianity, computers and technology, cookbooks, food and wine, crafts and hobbies, education and teaching, engineering, English, entertainment news, foreign languages, board games, computer games and video games, gay and lesbian, health, diet and fitness, history, home and garden, humor, Judaism and Judaica, law, medical diseases and medicine, military history, new age and spirituality, parenting and family, pets, philosophy, political and current events, psychology and psychotherapy, religion, science and nature, self-help and self-improvement, sex and relationships, social sciences, sports and outdoor adventures, travel, true crime, weddings and women's studies; portable electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers for reading, displaying, receiving, purchasing, sharing, lending, accessing and storing downloadable electronic publications, namely, books, e-books, magazines, newspapers, text, images, digital web site content and digital media, namely, digital audio, music, digital video and computer, video and mobile computer games and applications, all through wired and wireless Internet access, accessories therefor and instructional manuals, sold as a unit; computer software for displaying, receiving, reading, purchasing, accessing and storing downloadable electronic publications, syncing electronic publications with portable electronic apparatus, loaning and sharing electronic publications with third parties and sampling electronic publications; downloadable computer software for displaying, receiving, reading and storing downloadable electronic publications and syncing electronic publications with portable electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers, loaning and sharing electronic publications with third parties and sampling electronic publications; computer software for use in reading, displaying, purchasing, sharing, lending and accessing electronic publications and digital media featuring books, newspapers, magazines, periodicals, digital images, web sites, music, games and other digital entertainment, and instructional manuals, sold as a unit; downloadable computer software for use in reading, displaying, purchasing, sharing, lending and accessing electronic publications and digital media featuring books, newspapers, magazines, digital images, web sites, music, games and other digital entertainment, and instructional manuals, sold as a unit; downloadable MP3 files, MP3 recordings, on-line discussion boards, webcasts, webinars and podcasts featuring music and news broadcasts; protective covers and cases for portable electronic book readers and portable handheld digital electronic appar-</p>

	<p>atus, namely, electronic book readers, handheld computers, mobile computers and tablet computers; leather protective covers and cases for portable electronic book readers and portable handheld digital electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers; silicone, fabric and plastic protective sleeves and skins for portable electronic book readers and portable handheld digital electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers; carrying cases, holders, protective cases and stands featuring power supply connectors, adaptors, speakers and battery charging devices, specially adapted for use with handheld digital electronic devices; batteries, rechargeable electric batteries and battery chargers; power supplies and chargers for portable electronic apparatus; power supplies and chargers for portable electronic apparatus for use in vehicles; clear protective covers specially adapted for personal electronic devices; usb cables; downloadable music and electronic computer games and video games and applications via the internet and wireless devices; downloadable computer software and applications for reading, purchasing, storing and sharing books and digital content, including relating to business, education, entertainment, finance, games, health and fitness, lifestyle, medical, music, navigation, news, photography, productivity, reference, social networking, sports, travel, computer utilities, utilities and weather; digital web site content and digital media, namely, digital audio, music, digital video and computer, video and mobile computer games and applications, all through wired and wireless internet access and portable electronic apparatus</p> <p>Class 035. First use: First Use: 1999/04/26 First Use In Commerce: 1999/04/26</p> <p>Book distributorship services; retail and online retail bookstore services, featuring books, text-books, used books, used text-books, magazines, compact discs, audio and video cassettes, digital video discs, computer software, computer and video games, posters, stationery, calendars, food, beverages, general giftware items and school supplies, namely, erasers, binders, presentation folders, notepads, writing paper pads, blank paper, ruled paper, loose-leaf paper, blank notebooks, markers, paper staplers, paper staple removers, desktop organizers, rubber stamps and ink pads, binder and paper clips, dispensers for adhesive tape for stationery or household purposes, pen and pencil holders, stationery cases and holders and file trays for desk accessories, book covers, book ends, book holders, book marks, book plates, paper weights for books, paper weights, push pins, paper clips, sketchbooks, scratch pads, address books, dry erase writing boards and writing surfaces, stick-on whiteboards and dry-erase boards; providing best seller lists and personal recommendations and gift ideas concerning books, magazines, music, software and general giftware; retail and online retail store services featuring downloadable electronic publications, namely, books, electronic books, magazines, articles, stories, newspapers, text, images, discount, rebate and special offer coupons and vouchers, coupons, vouchers, digital web site content and digital media in the nature of books, electronic books, magazines, articles, stories, newspapers, text, images, mobile computer, tablet and electronic reader applications, music and movies through wired and wireless Internet access; retail and online retail store services featuring portable electronic book readers, mobile and tablet computers and accessories for portable electronic book readers, mobile and tablet computers, namely, carrying cases, leather carrying cases, silicone, fabric and plastic sleeves and skins for electronic book readers, rechargeable batteries, book lights, protective film covers and combination book light and cover; customer support services, namely, providing assistance with activation and use of electronic book readers, downloading of electronic publications and online customer accounts; providing a web site for users with specific informed recommendations of specific consumer products and services validated by the inputted preferences and social network of the user; providing a web site for users with exclusive personalized recommendations on books, electronic books, authors, book subject matter, book genres, music and digital media entertainment; promoting the goods and services of others by providing a website featuring discounts,</p>
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	<p>coupons, rebates, vouchers and special offers on books, magazines, newspapers, mobile computer, tablet and electronic reader apparatus and applications, music, videos and electronic publications, namely, electronic books, magazines and newspapers; providing consumer information on electronic book reader apparatus, books, authors and electronic publications via a web site; providing consumer information and news on new book and electronic book releases, portable electronic book reader applications and features</p> <p>Class 038. First use: First Use: 2009/10/31 First Use In Commerce: 2009/10/31</p> <p>Providing one step online access to social networking sites on the internet and providing e-mail services, namely, access to email accounts; providing on-line forums, bulletin boards and chat rooms in the fields of books, electronic publications, magazines, newspapers, authors, publishing, electronic e-reader apparatus and related items; providing Internet access for downloads of books, magazines, newspapers and digital media on a variety of topics via a web site and providing wireless Internet access to in-store customers for browsing, sampling, loaning, sharing, lending, displaying, receiving, reading, downloading, purchasing and accessing electronic and digital publications in the nature and digital media and entertainment, namely, downloadable audio and video files featuring books, newspapers, magazines, journals, periodicals, manuals, guidebooks, digital images, music, games, computer games and computer applications, movies and television shows</p> <p>Class 041. First use: First Use: 1999/04/26 First Use In Commerce: 1999/04/26</p> <p>Online electronic publishing of books, electronic books, magazines, newspapers, text and images on a variety of topics, namely, graphic novels, comics, picture books, teen fiction, horror and suspense, mystery and crime, music, movies, television, entertainment and popular culture, poetry, romance, school life, science fiction and fantasy, thrillers and westerns, African Americans, antiques and collectibles, art, architecture and photography, bibles and bible studies, biography, business and personal finances, Christianity, computers and technology, cookbooks, food and wine, crafts and hobbies, education and teaching, engineering, English, entertainment, foreign languages, games, gay and lesbian, health, diet and fitness, history, home and garden, humor, Judaism and Judaica, law, medical and medicine, military history, new age and spirituality, parenting and family, pets, philosophy, political and current events, psychology and psychotherapy, reference, religion, science and nature, self-help and self-improvement, sex and relationships, social sciences, sports and adventure, study guides and test preparation, travel, true crime, weddings and women's studies; lending and sharing of electronic books and other electronic publications; providing a website featuring non-downloadable electronic publications, namely, book reviews, news and web articles on children's books, various current events topics, events that occurred on this date in history, humor and blogs on electronic book readers and books; providing information on education and entertainment information via a web site; online publications, namely, blogs on electronic book readers, books, electronic publications, authors, news, children's books and humor; providing a website featuring non-downloadable electronic publications, namely, books, newspapers, and magazines on a variety of topics, namely, graphic novels, comics, picture books, teen fiction, horror and suspense, mystery and crime, music, movies, television, entertainment and popular culture, poetry, romance, school life, science fiction and fantasy, thrillers and westerns, African Americans, antiques and collectibles, art, architecture and photography, bibles and bible studies, biography, business and personal finances, Christianity, computers and technology, cookbooks, food and wine, crafts and hobbies, education and teaching, engineering, English, entertainment, foreign languages, games, gay and lesbian, health, diet and fitness, history, home and garden, humor, Judaism and Judaica, law, medical and medicine, military history, new age and spirituality, parenting and family, pets, philosophy, political and current events, psychology and psychotherapy, reference, religion, science and nature, self-help and self-improvement, sex and relationships, social sciences, sports and adventure, study guides and test preparation, travel, true</p>
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	<p>crime, weddings and women's studies; providing non-downloadable prerecorded music all on-line via a global computer network; entertainment services, namely, providing temporary use of non-downloadable computer games in a variety of fields; Entertainment in the nature of providing online book reviews, personal recommendations and interviews with authors; providing a web site featuring information on books, book reviews, celebrities, publishing, entertainment news, book covers, book jacket designers, authors and book collectors. educational services, namely, providing interactive educational classes, seminars, conferences, lectures and workshops via a global computer information network in the fields of preschool, elementary, middle school, college and post-graduate subjects, namely, math, algebra, calculus, trigonometry, geometry, chemistry, organic chemistry, biology, microbiology, physics, astronomy, computer science, geology, history, psychology, philosophy, economics, film, health, art history, language, English, ESL, sign language, Spanish, French, Italian, German, Hebrew, Japanese, Chinese, Latin, law, anatomy, medicine, nursing, music, marketing, macroeconomics, accounting, mythology, women's studies, sociology, test preparation and SAT test preparation and distributing course materials in connection therewith; entertainment services, namely, an on-going multimedia series provided via a web site featuring information on books, book reviews and publishing and entertainment news, book covers, book jacket designers, authors and book collectors; book publishing services; online electronic publishing of e-books, magazines, newspapers, and other electronic publications in digital format</p> <p>Class 042. First use: First Use: 1999/04/26 First Use In Commerce: 1999/04/29 Providing a website featuring non-downloadable computer software and applications for reading, purchasing, storing and sharing books and digital content on a variety of topics, namely, graphic novels, comics, picture books, teen fiction, horror and suspense, mystery and crime, music, movies, television, entertainment and popular culture, poetry, romance, school life, science fiction and fantasy, thrillers and westerns, African Americans, antiques and collectibles, art, architecture and photography, bibles and bible studies, biography, business and personal finances, Christianity, computers and technology, cookbooks, food and wine, crafts and hobbies, education and teaching, engineering, English, entertainment, foreign languages, games, gay and lesbian, health, diet and fitness, history, home and garden, humor, Judaism and Judaica, law, medical and medicine, military history, new age and spirituality, parenting and family, pets, philosophy, political and current events, psychology and psychotherapy, reference, religion, science and nature, self-help and self-improvement, sex and relationships, social sciences, sports and adventure, study guides and test preparation, travel, true crime, weddings and women's studies; providing periodic updates regarding portable electronic book readers and portable electronic book reader software, firmware, features and operating systems to subscribers by means of electronic mail; providing a web-based service featuring technology that enables users to manage the production and publication of e-books, magazines, newspapers, and other electronic publications in digital format, hard and soft cover books and related digital content and offer them for sale to the general public. providing a web site featuring the ratings, reviews and recommendations on products and services for commercial purposes posted by users</p> <p>Class 045. First use: First Use: 2007/11/09 First Use In Commerce: 2007/11/09 Providing social networking websites for entertainment purposes</p>
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U.S. Registration No.	2915318	Application Date	09/22/2003
Registration Date	12/28/2004	Foreign Priority Date	NONE
Word Mark	BARNSIE "THE NOBLE BEAR"		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 028. First use: First Use: 2003/11/30 First Use In Commerce: 2003/11/30 toys and games, namely, plush toys, plush animals, stuffed animals and dolls

U.S. Application No.	86890869	Application Date	01/29/2016
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	NOBLE
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 028. First use: First Use: 0 First Use In Commerce: 0 Stuffed and plush toys, namely, a stuffed and plush dog
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U.S. Registration No.	4672100	Application Date	02/01/2012
Registration Date	01/13/2015	Foreign Priority Date	NONE


Word Mark	BARNES & NOBLE RECOMMENDS
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 035. First use: First Use: 2012/01/17 First Use In Commerce: 2012/01/17 Retail and online retail store servicesfeaturing electronic and digital books,magazines, newspapers, music, videos and computer software and applications; promoting and marketing the goods and services of others by distributing coupons, vouchers, discount, rebates, special advertising offers and downloadable digitalweb site content in the nature of downloadable electronic and digital books, magazines, newspapers, music, videos and computer software and applications via web pages, e-mail and text messages; Retail and online retail store services featuring electronic book readers, computers,tablet computers,
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	<p>mobile hand-held computing apparatus, namely, smart phones, cellular phones and mobile phones, and portable hand-held apparatus, namely, digital media players and accessories therefor, namely, carrying cases, leather carrying cases, silicone cases, fabric and plastic sleeves and skins for electronic book readers, rechargeable batteries, book lights, protective film covers and combination book light and book cover; providing a web-based system and online portal for providing users with informed suggestions of consumer products and services validated by the inputted preferences and social network of the user and providing users with exclusive personalized suggestions on books, electronic books, authors, book subject matter, book genres, music, videos and digital media entertainment all for commercial purposes</p> <p>Class 041. First use: First Use: 2012/01/17 First Use In Commerce: 2012/01/17 Book and reading club services and on-line book and reading club services, namely, arrangement and formation of social events, get-togethers, and parties for club members; book and reading club services and on-line book and reading club services, providing a web-based system and online portal for providing users with informed suggestions of consumer products and services validated by the inputted preferences and social network of the user and providing users with exclusive personalized suggestions on books, electronic books, authors, book subject matter, book genres, music, videos and digital media entertainment all for non-business and non-commercial transactions and purposes, but for entertainment and educational purposes</p>
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U.S. Registration No.	3739532	Application Date	06/15/2009
Registration Date	01/19/2010	Foreign Priority Date	NONE
Word Mark	BARNES & NOBLE REDISCOVERS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 2009/06/01 First Use In Commerce: 2009/06/01 Series of fiction and non-fiction books on a variety of topics, namely, history, literature, philosophy, religion, the arts and science		

U.S. Registration No.	4682913	Application Date	04/08/2014
Registration Date	02/03/2015	Foreign Priority Date	NONE
Word Mark	ESPARI		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 028. First use: First Use: 2014/11/07 First Use In Commerce: 2014/11/07 toys and games, namely, dolls, doll clothing, doll costumes, doll accessories, doll shoes, doll hair accessories, doll playsets, doll houses, doll house furnishings and doll cases; toy action figures and accessories therefor

U.S. Registration No.	4712528	Application Date	08/20/2014
Registration Date	03/31/2015	Foreign Priority Date	NONE
Word Mark	MARNIE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 2014/11/07 First Use In Commerce: 2014/11/07 toys and games, namely, dolls, doll clothing, doll accessories, doll costumes, doll shoes and doll hair accessories		

U.S. Registration No.	4712530	Application Date	08/20/2014
Registration Date	03/31/2015	Foreign Priority Date	NONE
Word Mark	KAYUMI		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 028. First use: First Use: 2014/11/07 First Use In Commerce: 2014/11/07 Toys and games, namely, dolls, doll clothing, doll accessories, doll costumes, doll shoes and doll hair accessories

U.S. Registration No.	4712531	Application Date	08/20/2014
Registration Date	03/31/2015	Foreign Priority Date	NONE
Word Mark	LILY RIA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 2014/11/07 First Use In Commerce: 2014/11/07 Toys and games, namely, dolls, doll clothing, doll accessories, doll costumes, doll shoes and doll hair accessories		

U.S. Registration No.	4712532	Application Date	08/20/2014
Registration Date	03/31/2015	Foreign Priority Date	NONE
Word Mark	ANNALYN		

Design Mark	ANNALYN
Description of Mark	NONE
Goods/Services	Class 028. First use: First Use: 2014/11/07 First Use In Commerce: 2014/11/07 Toys and games, namely, dolls, doll clothing, doll accessories, doll costumes, doll shoes and doll hair accessories

U.S. Registration No.	4833769	Application Date	02/18/2015
Registration Date	10/13/2015	Foreign Priority Date	NONE
Word Mark	MIRIELLE		
Design Mark	MIRIELLE		
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 2015/02/06 First Use In Commerce: 2015/02/06 Toys and games, namely, dolls, doll clothing, doll accessories, doll costumes, doll shoes and doll hair accessories		

U.S. Registration No.	4961028	Application Date	10/15/2014
Registration Date	05/17/2016	Foreign Priority Date	NONE
Word Mark	WOBBLIO		
Design Mark	WOBBLIO		
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 2015/12/14 First Use In Commerce: 2015/12/14		

	Toys and games, namely, wooden toy vehicles and accessories for toddlers, preschoolers and young children
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Attachments	75783040#TMSN.png(bytes) 75577683#TMSN.png(bytes) 76148254#TMSN.png(bytes) 77264335#TMSN.png(bytes) 77264336#TMSN.png(bytes) 85564152#TMSN.png(bytes) 76489445#TMSN.png(bytes) 85564167#TMSN.png(bytes) 86890869#TMSN.png(bytes) 85530713#TMSN.png(bytes) 77759929#TMSN.png(bytes) 86245860#TMSN.png(bytes) 86372223#TMSN.png(bytes) 86372244#TMSN.png(bytes) 86372249#TMSN.png(bytes) 86372254#TMSN.png(bytes) 86537918#TMSN.png(bytes) 86424178#TMSN.png(bytes) Notice of Opposition NOBLE GAMING June 6 2016.pdf(183812 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/tjbraverman/
Name	Todd Braverman, Esq.
Date	06/06/2016

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BARNES & NOBLE, INC. AND	:
BARNES & NOBLE BOOKSELLERS, INC.	:
	: Opposition No.
	: Application Serial No. 86/725,370
	: Mark: NOBLE GAMING & DESIGN
Opposer,	:
	:
	:
v.	:
	:
	:
NOBLE, INC.	:
	:
Applicant.	:
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BARNES & NOBLE, INC., a Delaware corporation, having its principal place of business located at 122 Fifth Avenue, New York, NY 10011 and BARNES & NOBLE BOOKSELLERS, INC., a Delaware corporation, having its principal place of business located at 122 Fifth Avenue, New York, NY 10011 (jointly referred to as the “Opposer”) believes that they will be damaged by registration of the mark “NOBLE GAMING & DESIGN shown in U.S. Application Serial No. 86/725,370, which was filed on August 14, 2015, by Noble, Inc., a New Mexico Corporation, located at 8216 Montgomery Blvd. NE, Albuquerque, NM 87109 (the “Applicant”), and hereby opposes the same under the provisions of Section 13 of the Trademark Act of 1946 (15 U.S.C. §1063).

As grounds of opposition, it is alleged that:

1. The Applicant seeks to register the mark NOBLE GAMING & DESIGN (hereinafter "NOBLE GAMING") for "On-line retail store services featuring a wide variety of consumer goods of others; On-line retail store services featuring downloadable computer, video and electronic games; On-line retail store services featuring new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; promoting the sale of goods of others through the administration of a customer incentive award and discount program featuring discounts on new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; Operation of gaming equipment and gaming systems in the gambling industry for others for business purposes; Retail consignment stores featuring new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; promoting the sale of goods of others through the administration of a customer incentive award and discount program featuring discounts on new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories,

toys and action figures; Retail consignment stores in the field of new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; promoting the sale of goods of others through the administration of a customer incentive award and discount program featuring discounts on new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; Retail store services featuring new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; promoting the sale of goods of others through the administration of a customer incentive award and discount program featuring discounts on new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; Retail stores featuring new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; promoting the sale

of goods of others through the administration of a customer incentive award and discount program featuring discounts on new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures,” in International Class 35 (“Applicant’s Goods and Services”), as evidenced by the publication of said mark in the *Official Gazette* in the February 23, 2016 issue.

2. Applicant, Noble, Inc., filed the application for the mark “NOBLE GAMING & DESIGN” on August 14, 2015, pursuant to Section 1(a) of the Lanham Act, 15 U.S.C. §1141f(a).

3. The U.S. Patent and Trademark Office (“USPTO”) assigned the U.S. trademark application for the mark “NOBLE GAMING” U.S. Trademark Application Serial No. 86/725,370.

4. In connection with U.S. Trademark Application Serial No. 86/725,370 for the mark “NOBLE GAMING,” Applicant claimed a date of first use and first use in commerce at least as early as June 3, 2015.

5. Opposer, through its predecessors and related companies has been and continues to be engaged in the sale of various goods and services, including but not limited to, retail store and online retail store services featuring books, toys, games, computer games and educational products and materials, including, but not limited to, textbooks, study guides, study charts and test preparation materials, all on a variety of academic and educational topics, as well as electronic book readers, handheld computers, mobile computers and tablet computers and accessories, under the marks

BARNES & NOBLE, B&N, BN.COM and BN, alone and with other terms, prior to June 3, 2015.

6. Long prior to June 3, 2015, Opposer, through its predecessors and/or related companies, has been, and continues to be, engaged in the marketing and sale of a variety of toys, games, computer games and electronic goods and services under the marks BARNES & NOBLE, B&N, BN.COM and BN, alone and with other terms.

7. As a result of Opposer's long and extensive promotion, marketing and use of various BARNES & NOBLE, B&N, BN.COM and BN marks, including the marketing and sale of a variety of toys, games, computer games and electronic goods and services, Opposer has established and owns a family of "BARNES & NOBLE" marks (hereinafter, the "Family of BARNES & NOBLE Marks").

8. Opposer is the owner, licensor or licensee of United States Service Mark Registration No. 1,138,704 for the mark BARNES & NOBLE for "book distributorship services and retail bookstore services," in International Class 42. The USPTO issued a registration for the mark on August 12, 1980 and the mark has been in continuous and exclusive use since March 1975. Said Federal Registration is valid and subsisting and is now incontestable in accordance with Section 33(b) of the Trademark Act, 15 U.S.C. § 1115(b). Said Federal Registration has been renewed in accordance with Section 9 of the Trademark Act, 15 U.S.C. § 1059.

9. Opposer is the owner, licensor or licensee of United States Service Mark Registration No. 2,360,296 for the mark BN.COM for "online retail bookstore services, featuring, among other things, books, magazines, software and general giftware items," in International Class 35; "entertainment in the nature of providing online book reviews,

interviews with authors, personal recommendations, gift ideas, and bestseller lists, all related to books, magazines, and general giftware items,” in International Class 41; and “computer services, namely providing a web site of information about software,” in International Class 42. The USPTO issued a registration for the mark on June 20, 2000 and the mark has been in continuous and exclusive use since April 26, 1999. Said Federal Registration is valid, subsisting and is now incontestable in accordance with Section 33(b) of the Trademark Act, 15 U.S.C. § 1115(b). Said Federal Registration has been renewed in accordance with Section 9 of the Trademark Act, 15 U.S.C. § 1059.

10. Opposer is the owner, licensor or licensee of United States Service Mark Registration No. 2,290,269 for the mark BARNESANDNOBLE.COM for “online retail bookstore services, featuring, among other things, books, magazines, software and general giftware items,” in International Class 35; “entertainment in the nature of providing online book reviews, interviews with authors, personal recommendations, gift ideas, and bestseller lists, all related to books, magazines, and general giftware items,” in International Class 41; and “computer services, namely providing a web site of information about software,” in International Class 42. The USPTO issued a registration for the mark on November 2, 1999 and the mark has been in continuous and exclusive use since May 13, 1997. Said Federal Registration is valid and subsisting and is now incontestable in accordance with Section 33(b) of the Trademark Act, 15 U.S.C. § 1115(b). Said Federal Registration has been renewed in accordance with Section 9 of the Trademark Act, 15 U.S.C. § 1059.

11. Opposer is the owner, licensor or licensee of United States Service Mark Registration No. 2,512,356 for the mark BARNES & NOBLE.COM for “online retail bookstore services, featuring, among other things, books, magazines, software, compact discs, audio and video cassettes, digital video discs, posters and general giftware items,” in International Class 35; “entertainment in the nature of providing online book reviews, interviews with authors, personal recommendations, gift ideas, and bestseller lists, all related to books, magazines, software, music and general giftware items; educational services, namely, providing interactive educational classes, seminars, conferences, lectures and workshops in the fields of K-12, post-secondary, post-graduate, professional, vocational, workplace and continuing education and distributing course materials in connection therewith, via a global computer information network,” in International Class 41 and “computer services, namely, providing a web site of information about software,” in International Class 42. The USPTO issued a registration for the mark on November 27, 2001 and the mark has been in continuous and exclusive use since February 8, 2000. Said Federal Registration is valid, subsisting and is now incontestable in accordance with Section 33(b) of the Trademark Act, 15 U.S.C. § 1115(b). Said Federal Registration has been renewed in accordance with Section 9 of the Trademark Act, 15 U.S.C. § 1059.

12. Opposer is the owner, licensor or licensee of United States Trademark Registration No. 3,848,163 for the mark BARNES & NOBLE & DESIGN for “retail and online retail bookstore services, featuring, among other things, books, text-books, used books, used text-books, magazines, compact discs, audio and video cassettes, digital video discs, computer software, computer and video games, posters, stationery, school

supplies, food, beverages and general giftware items; providing best seller lists and personal recommendations and gift ideas concerning books, magazines, music, software and general giftware,” in International Class 35; “entertainment in the nature of providing online book reviews and interviews with authors; educational services, namely, providing interactive educational classes, seminars, conferences, lectures and workshops in the fields of K-12, post-secondary, post-graduate, professional, vocational, workplace and continuing education and distributing course materials in connection therewith, via a global computer information network,” in International Class 41 and “providing online reviews and personal recommendations on software,” in International Class 42. The USPTO issued a registration for the mark on September 14, 2010 and the mark has been in continuous and exclusive use since August 7, 2007. Said Federal Registration, dated September 14, 2010, is valid and subsisting.

13. Opposer is the owner, licensor or licensee of United States Trademark Registration No. 3,864,808 for the mark BARNES & NOBLE BOOKSELLERS & DESIGN for “retail and online retail bookstore services, featuring, among other things, books, text-books, used books, used text-books, magazines, compact discs, audio and video cassettes, digital video discs, computer software, computer and video games, posters, stationery, school supplies, food, beverages and general giftware items; providing best seller lists and personal recommendations and gift ideas concerning books, magazines, music, software and general giftware,” in International Class 35; “entertainment in the nature of providing online book reviews and interviews with authors; educational services, namely, providing interactive educational classes, seminars, conferences, lectures and workshops in the fields of K-12, post-secondary,

post-graduate, professional, vocational, workplace and continuing education and distributing course materials in connection therewith, via a global computer information network,” in International Class 41 and “providing online reviews and personal recommendations on software,” in International Class 42. The USPTO issued a registration for the mark on October 19, 2010 and the mark has been in continuous and exclusive use since August 7, 2007. Said Federal Registration, dated October 19, 2010, is valid and subsisting.

14. Opposer is the owner, licensor or licensee of United States Trademark Registration No. 4,319,847 for the mark BARNES & NOBLE for the following goods and services:

Class 09 - Downloadable electronic and digital publications in the nature of fiction and non-fiction books, audio books, children's books, magazines, newspapers, journals, periodicals, manuals, graphic novels, comics, picture books, reference magazines, study guides and test preparation books, and guidebooks on a variety of topics, namely, teen fiction, horror and suspense, mystery and crime, music, movies, television, popular culture, poetry, romance, school life, science fiction and fantasy, thrillers and westerns, African Americans, antiques and collectibles, art, architecture and photography, bibles and bible studies, biography, business and personal finances, Christianity, computers and technology, cookbooks, food and wine, crafts and hobbies, education and teaching, engineering, English, entertainment news, foreign languages, board games, computer games and video games, gay and lesbian, health, diet and fitness, history, home and garden, humor, Judaism and Judaica, law, medical diseases and medicine, military history, new age and spirituality, parenting and family, pets, philosophy, political and current events, psychology and psychotherapy, religion, science and nature, self-help and self improvement, sex and relationships, social sciences, sports and outdoor adventures, travel, true crime, weddings and women's studies; portable electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers for reading, displaying, receiving, purchasing, sharing, lending, accessing and storing downloadable electronic publications, namely, books, e-books, magazines, newspapers, text, images, digital web site content and digital media, namely, digital audio, music, digital video and computer, video and mobile computer games and applications, all through wired and wireless

Internet access, accessories therefor and instructional manuals, sold as a unit; computer software for displaying, receiving, reading, purchasing, accessing and storing downloadable electronic publications, syncing electronic publications with portable electronic apparatus, loaning and sharing electronic publications with third parties and sampling electronic publications; downloadable computer software for displaying, receiving, reading and storing downloadable electronic publications and syncing electronic publications with portable electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers, loaning and sharing electronic publications with third parties and sampling electronic publications; computer software for use in reading, displaying, purchasing, sharing, lending and accessing electronic publications and digital media featuring books, newspapers, magazines, periodicals, digital images, web sites, music, games and other digital entertainment, and instructional manuals, sold as a unit; downloadable computer software for use in reading, displaying, purchasing, sharing, lending and accessing electronic publications and digital media featuring books, newspapers, magazines, digital images, web sites, music, games and other digital entertainment, and instructional manuals, sold as a unit; downloadable MP3 files, MP3 recordings, on-line discussion boards, webcasts, webinars and podcasts featuring music and news broadcasts; protective covers and cases for portable electronic book readers and portable handheld digital electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers; leather protective covers and cases for portable electronic book readers and portable handheld digital electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers. silicone, fabric and plastic protective sleeves and skins for portable electronic book readers and portable handheld digital electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers; carrying cases, holders, protective cases and stands featuring power supply connectors, adaptors, speakers and battery charging devices, specially adapted for use with handheld digital electronic devices; batteries, rechargeable electric batteries and battery chargers; power supplies and chargers for portable electronic apparatus; power supplies and chargers for portable electronic apparatus for use in vehicles; clear protective covers specially adapted for personal electronic devices; usb cables; downloadable music and electronic computer games and video games and applications via the internet and wireless devices; downloadable computer software and applications for reading, purchasing, storing and sharing books and digital content, including relating to business, education, entertainment, finance, games, health and fitness, lifestyle, medical, music, navigation, news, photography, productivity, reference, social networking, sports, travel, computer utilities, utilities and weather; bags for holding portable electronic apparatus, electronic book readers, handheld computers, mobile computers and tablet computers;

digital web site content and digital media, namely, digital audio, music, digital video and computer, video and mobile computer games and applications, all through wired and wireless internet access and portable electronic apparatus;

Class 11 - Book lights; combination book light and covers for portable electronic apparatus, electronic book readers, handheld computers, mobile computers and tablet computers;

Class 16 - Publications in the nature of fiction and non-fiction books, children's books, magazines, newspapers, journals, periodicals, manuals, graphic novels, comics, picture books, reference magazines, study guides and test preparation books, and guidebooks on a variety of topics, namely, teen fiction, horror and suspense, mystery and crime, music, movies, television, popular culture, poetry, romance, school life, science fiction and fantasy, thrillers and westerns, African Americans, antiques and collectibles, art, architecture and photography, bibles and bible studies, biography, business and personal finances, Christianity, computers and technology, cookbooks, food and wine, crafts and hobbies, education and teaching, engineering, English, entertainment news, foreign languages, board games, computer games and video games, gay and lesbian, health, diet and fitness, history, home and garden, humor, Judaism and Judaica, law, medical diseases and medicine, military history, new age and spirituality, parenting and family, pets, philosophy, political and current events, psychology and psychotherapy, religion, science and nature, self-help and self-improvement, sex and relationships, social sciences, sports and outdoor adventures, travel, true crime, weddings and women's studies. stationery, posters, calendars, blank journals and personalized writing journals, notebooks, pens, pencils, photo albums and school supplies, namely, erasers, binders, presentation folders, notepads, writing paper pads, blank paper, ruled paper, loose-leaf paper, blank paper notebooks, markers, paper staplers, paper staple removers, desktop organizers, rubber stamps and ink pads, binder and paper clips, dispensers for adhesive tape for stationery or household purposes, pen and pencil holders, stationery cases and holders and file trays for desk accessories, book covers, book ends, book holders, book marks, book plates, paper weights for books, paper weights, push pins, paper clips, sketchbooks, scratch pads, address books, dry erase writing boards and writing surfaces, stick-on whiteboards and dry-erase boards;

International Class 18 - Book bags, tote bags, school book bags;

Class 35 - Book distributorship services; retail and online retail bookstore services, featuring books, text-books, used books, used text-books, magazines, compact discs, audio and video cassettes, digital video discs, computer software, computer and video games, posters, stationery,

calendars, food, beverages, general giftware items and school supplies, namely, erasers, binders, presentation folders, notepads, writing paper pads, blank paper, ruled paper, loose-leaf paper, blank notebooks, markers, paper staplers, paper staple removers, desktop organizers, rubber stamps and ink pads, binder and paper clips, dispensers for adhesive tape for stationery or household purposes, pen and pencil holders, stationery cases and holders and file trays for desk accessories, book covers, book ends, book holders, book marks, book plates, paper weights for books, paper weights, push pins, paper clips, sketchbooks, scratch pads, address books, dry erase writing boards and writing surfaces, stick-on whiteboards and dry-erase boards; providing best seller lists and personal recommendations and gift ideas concerning books, magazines, music, software and general giftware; retail and online retail store services featuring downloadable electronic publications, namely, books, electronic books, magazines, articles, stories, newspapers, text, images, discount, rebate and special offer coupons and vouchers, coupons, vouchers, digital web site content and digital media in the nature of books, electronic books, magazines, articles, stories, newspapers, text, images, mobile computer, tablet and electronic reader applications, music and movies through wired and wireless Internet access. retail and online retail store services featuring portable electronic book readers, mobile and tablet computers and accessories for portable electronic book readers, mobile and tablet computers, namely, carrying cases, leather carrying cases, silicone, fabric and plastic sleeves and skins for electronic book readers, rechargeable batteries, book lights, protective film covers and combination book light and cover; customer support services, namely, providing assistance with activation and use of electronic book readers, downloading of electronic publications and online customer accounts; providing a web site for users with specific informed recommendations of specific consumer products and services validated by the inputted preferences and social network of the user; providing a web site for users with exclusive personalized recommendations on books, electronic books, authors, book subject matter, book genres, music and digital media entertainment; promoting the goods and services of others by providing a website featuring discounts, coupons, rebates, vouchers and special offers on books, magazines, newspapers, mobile computer, tablet and electronic reader apparatus and applications, music, videos and electronic publications, namely, electronic books, magazines and newspapers; providing consumer information on electronic book reader apparatus, books, authors and electronic publications via a web site; providing consumer information and news on new book and electronic book releases, portable electronic book reader applications and features;

Class 38 - Providing one step online access to social networking sites on the internet and providing e-mail services, namely, access to email accounts; providing on-line forums, bulletin boards and chat rooms in the

fields of books, electronic publications, magazines, newspapers, authors, publishing, electronic e-reader apparatus and related items; providing Internet access to downloads of books, magazines, newspapers and digital media on a variety of topics via a web site and providing wireless Internet access to in-store customers for browsing, sampling, loaning, sharing, lending, displaying, receiving, reading, downloading, purchasing and accessing electronic and digital publications in the nature and digital media and entertainment, namely, downloadable audio and video files featuring books, newspapers, magazines, journals, periodicals, manuals, guidebooks, digital images, music, games, computer games and computer applications, movies and television shows;

Class 41 - Online electronic publishing of books, electronic books, magazines, newspapers, text and images on a variety of topics, namely, graphic novels, comics, picture books, teen fiction, horror and suspense, mystery and crime, music, movies, television, entertainment and popular culture, poetry, romance, school life, science fiction and fantasy, thrillers and westerns, African Americans, antiques and collectibles, art, architecture and photography, bibles and bible studies, biography, business and personal finances, Christianity, computers and technology, cookbooks, food and wine, crafts and hobbies, education and teaching, engineering, English, entertainment, foreign languages, games, gay and lesbian, health, diet and fitness, history, home and garden, humor, Judaism and Judaica, law, medical and medicine, military history, new age and spirituality, parenting and family, pets, philosophy, political and current events, psychology and psychotherapy, reference, religion, science and nature, self-help and self improvement, sex and relationships, social sciences, sports and adventure, study guides and test preparation, travel, true crime, weddings and women's studies; lending and sharing of electronic books and other electronic publications; providing a website featuring non-downloadable electronic publications, namely, book reviews, news and web articles on children's books, various current events topics, events that occurred on this date in history, humor and blogs on electronic book readers and books; providing information on education and entertainment information via a web site; online publications, namely, blogs on electronic book readers, books, electronic publications, authors, news, children's books and humor. providing a website featuring non-downloadable electronic publications, namely, books, newspapers, and magazines on a variety of topics, namely, graphic novels, comics, picture books, teen fiction, horror and suspense, mystery and crime, music, movies, television, entertainment and popular culture, poetry, romance, school life, science fiction and fantasy, thrillers and westerns, African Americans, antiques and collectibles, art, architecture and photography, bibles and bible studies, biography, business and personal finances, Christianity, computers and technology, cookbooks, food and wine, crafts and hobbies, education and teaching, engineering, English, entertainment,

foreign languages, games, gay and lesbian, health, diet and fitness, history, home and garden, humor, Judaism and Judaica, law, medical and medicine, military history, new age and spirituality, parenting and family, pets, philosophy, political and current events, psychology and psychotherapy, reference, religion, science and nature, self-help and self improvement, sex and relationships, social sciences, sports and adventure, study guides and test preparation, travel, true crime, weddings and women's studies; providing non-downloadable prerecorded music all on-line via a global computer network; entertainment services, namely, providing temporary use of non-downloadable computer games in a variety of fields; entertainment in the nature of providing online book reviews, personal recommendations and interviews with authors; providing a web site featuring information on books, book reviews, celebrities, publishing, entertainment news, book covers, book jacket designers, authors and book collectors. educational services, namely, providing interactive educational classes, seminars, conferences, lectures and workshops via a global computer information network in the fields of preschool, elementary, middle school, college and post-graduate subjects, namely, math, algebra, calculus, trigonometry, geometry, chemistry, organic chemistry, biology, microbiology, physics, astronomy, computer science, geology, history, psychology, philosophy, economics, film, health, art history, language, English, ESL, sign language, Spanish, French, Italian, German, Hebrew, Japanese, Chinese, Latin, law, anatomy, medicine, nursing, music, marketing, macroeconomics, accounting, mythology, women's studies, sociology, test preparation and SAT test preparation and distributing course materials in connection therewith; entertainment services, namely, an on-going multimedia series provided via a web site featuring information on books, book reviews and publishing and entertainment news, book covers, book jacket designers, authors and book collectors; book publishing services; online electronic publishing of e-books, magazines, newspapers, and other electronic publications in digital format;

Class 42 - Providing a website featuring non-downloadable computer software and applications for reading, purchasing, storing and sharing books and digital content on a variety of topics, namely, graphic novels, comics, picture books, teen fiction, horror and suspense, mystery and crime, music, movies, television, entertainment and popular culture, poetry, romance, school life, science fiction and fantasy, thrillers and westerns, African Americans, antiques and collectibles, art, architecture and photography, bibles and bible studies, biography, business and personal finances, Christianity, computers and technology, cookbooks, food and wine, crafts and hobbies, education and teaching, engineering, English, entertainment, foreign languages, games, gay and lesbian, health, diet and fitness, history, home and garden, humor, Judaism and Judaica, law, medical and medicine, military history, new age and

spirituality, parenting and family, pets, philosophy, political and current events, psychology and psychotherapy, reference, religion, science and nature, self-help and self-improvement, sex and relationships, social sciences, sports and adventure, study guides and test preparation, travel, true crime, weddings and women's studies; providing periodic updates regarding portable electronic book readers and portable electronic book reader software, firmware, features and operating systems to subscribers by means of electronic mail; providing a web-based service featuring technology that enables users to manage the production and publication of e-books, magazines, newspapers, and other electronic publications in digital format, hard and soft cover books and related digital content and offer them for sale to the general public; providing a web site featuring the ratings, reviews and recommendations on products and services for commercial purposes posted by users; and

Class 45 - Providing social networking websites for entertainment purposes, in International Class 45.

The USPTO issued a registration for the mark on April 16, 2013 and the mark has been in continuous and exclusive use in Class 35 since at least as early as 1975 and in continuous and exclusive use in Class 09 since at least as early as October 29, 2009. Said Federal Registration is valid and subsisting.

15. Opposer is the owner, licensor or licensee of United States Service Mark Registration No. 2,797,319 for the mark B&N for "retail and online retail bookstore services, featuring, among other things, books, magazines, compact discs, audio and video cassettes, digital video discs, posters, food, beverages and general giftware items," in International Class 35. The USPTO issued a registration for the mark on December 23, 2003 and the mark has been in continuous and exclusive use since March 1975. Said Federal Registration is valid and subsisting and is now incontestable in accordance with Section 33(b) of the Trademark Act, 15 U.S.C. § 1115(b). Said Federal Registration has been renewed in accordance with Section 9 of the Trademark Act, 15 U.S.C. § 1059.

16. Opposer is the owner, licensor or licensee of United States Trademark

Registration No. 4,556,399 for the mark BN.COM for the following goods and services:

Class 09 - Downloadable electronic and digital publications in the nature of fiction and non-fiction books, audio books, children's books, magazines, newspapers, journals, periodicals, manuals, graphic novels, comics, picture books, reference magazines, study guides and test preparation books, and guidebooks on a variety of topics, namely, teen fiction, horror and suspense, mystery and crime, music, movies, television, popular culture, poetry, romance, school life, science fiction and fantasy, thrillers and westerns, African Americans, antiques and collectibles, art, architecture and photography, bibles and bible studies, biography, business and personal finances, Christianity, computers and technology, cookbooks, food and wine, crafts and hobbies, education and teaching, engineering, English, entertainment news, foreign languages, board games, computer games and video games, gay and lesbian, health, diet and fitness, history, home and garden, humor, Judaism and Judaica, law, medical diseases and medicine, military history, new age and spirituality, parenting and family, pets, philosophy, political and current events, psychology and psychotherapy, religion, science and nature, self-help and self improvement, sex and relationships, social sciences, sports and outdoor adventures, travel, true crime, weddings and women's studies; portable electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers for reading, displaying, receiving, purchasing, sharing, lending, accessing and storing downloadable electronic publications, namely, books, e-books, magazines, newspapers, text, images, digital web site content and digital media, namely, digital audio, music, digital video and computer, video and mobile computer games and applications, all through wired and wireless Internet access, accessories therefor and instructional manuals, sold as a unit; computer software for displaying, receiving, reading, purchasing, accessing and storing downloadable electronic publications, syncing electronic publications with portable electronic apparatus, loaning and sharing electronic publications with third parties and sampling electronic publications; downloadable computer software for displaying, receiving, reading and storing downloadable electronic publications and syncing electronic publications with portable electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers, loaning and sharing electronic publications with third parties and sampling electronic publications; computer software for use in reading, displaying, purchasing, sharing, lending and accessing electronic publications and digital media featuring books, newspapers, magazines, periodicals, digital images, web sites, music, games and other digital entertainment, and instructional manuals, sold as a unit; downloadable computer software for use in reading, displaying, purchasing, sharing,

lending and accessing electronic publications and digital media featuring books, newspapers, magazines, digital images, web sites, music, games and other digital entertainment, and instructional manuals, sold as a unit; downloadable MP3 files, MP3 recordings, on-line discussion boards, webcasts, webinars and podcasts featuring music and news broadcasts; protective covers and cases for portable electronic book readers and portable handheld digital electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers; leather protective covers and cases for portable electronic book readers and portable handheld digital electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers; silicone, fabric and plastic protective sleeves and skins for portable electronic book readers and portable handheld digital electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers; carrying cases, holders, protective cases and stands featuring power supply connectors, adaptors, speakers and battery charging devices, specially adapted for use with handheld digital electronic devices; batteries, rechargeable electric batteries and battery chargers; power supplies and chargers for portable electronic apparatus; power supplies and chargers for portable electronic apparatus for use in vehicles; clear protective covers specially adapted for personal electronic devices; usb cables; downloadable music and electronic computer games and video games and applications via the internet and wireless devices; downloadable computer software and applications for reading, purchasing, storing and sharing books and digital content, including relating to business, education, entertainment, finance, games, health and fitness, lifestyle, medical, music, navigation, news, photography, productivity, reference, social networking, sports, travel, computer utilities, utilities and weather; digital web site content and digital media, namely, digital audio, music, digital video and computer, video and mobile computer games and applications, all through wired and wireless internet access and portable electronic apparatus;

Class 35 - Book distributorship services; retail and online retail bookstore services, featuring books, text-books, used books, used text-books, magazines, compact discs, audio and video cassettes, digital video discs, computer software, computer and video games, posters, stationery, calendars, food, beverages, general giftware items and school supplies, namely, erasers, binders, presentation folders, notepads, writing paper pads, blank paper, ruled paper, loose-leaf paper, blank notebooks, markers, paper staplers, paper staple removers, desktop organizers, rubber stamps and ink pads, binder and paper clips, dispensers for adhesive tape for stationery or household purposes, pen and pencil holders, stationery cases and holders and file trays for desk accessories, book covers, book ends, book holders, book marks, book plates, paper weights for books, paper weights, push pins, paper clips, sketchbooks,

scratch pads, address books, dry erase writing boards and writing surfaces, stick-on whiteboards and dry-erase boards; providing best seller lists and personal recommendations and gift ideas concerning books, magazines, music, software and general giftware; retail and online retail store services featuring downloadable electronic publications, namely, books, electronic books, magazines, articles, stories, newspapers, text, images, discount, rebate and special offer coupons and vouchers, coupons, vouchers, digital web site content and digital media in the nature of books, electronic books, magazines, articles, stories, newspapers, text, images, mobile computer, tablet and electronic reader applications, music and movies through wired and wireless Internet access; retail and online retail store services featuring portable electronic book readers, mobile and tablet computers and accessories for portable electronic book readers, mobile and tablet computers, namely, carrying cases, leather carrying cases, silicone, fabric and plastic sleeves and skins for electronic book readers, rechargeable batteries, book lights, protective film covers and combination book light and cover; customer support services, namely, providing assistance with activation and use of electronic book readers, downloading of electronic publications and online customer accounts; providing a web site for users with specific informed recommendations of specific consumer products and services validated by the inputted preferences and social network of the user; providing a web site for users with exclusive personalized recommendations on books, electronic books, authors, book subject matter, book genres, music and digital media entertainment; promoting the goods and services of others by providing a website featuring discounts, coupons, rebates, vouchers and special offers on books, magazines, newspapers, mobile computer, tablet and electronic reader apparatus and applications, music, videos and electronic publications, namely, electronic books, magazines and newspapers; providing consumer information on electronic book reader apparatus, books, authors and electronic publications via a web site; providing consumer information and news on new book and electronic book releases, portable electronic book reader applications and features;

Class 38 - providing one step online access to social networking sites on the internet and providing e-mail services, namely, access to email accounts; providing on-line forums, bulletin boards and chat rooms in the fields of books, electronic publications, magazines, newspapers, authors, publishing, electronic e-reader apparatus and related items; providing Internet access to downloads of books, magazines, newspapers and digital media on a variety of topics via a web site and providing wireless Internet access to in-store customers for browsing, sampling, loaning, sharing, lending, displaying, receiving, reading, downloading, purchasing and accessing electronic and digital publications in the nature and digital media and entertainment, namely, downloadable audio and video files featuring books, newspapers, magazines, journals, periodicals, manuals,

guidebooks, digital images, music, games, computer games and computer applications, movies and television shows;

Class 41 - Online electronic publishing of books, electronic books, magazines, newspapers, text and images on a variety of topics, namely, graphic novels, comics, picture books, teen fiction, horror and suspense, mystery and crime, music, movies, television, entertainment and popular culture, poetry, romance, school life, science fiction and fantasy, thrillers and westerns, African Americans, antiques and collectibles, art, architecture and photography, bibles and bible studies, biography, business and personal finances, Christianity, computers and technology, cookbooks, food and wine, crafts and hobbies, education and teaching, engineering, English, entertainment, foreign languages, games, gay and lesbian, health, diet and fitness, history, home and garden, humor, Judaism and Judaica, law, medical and medicine, military history, new age and spirituality, parenting and family, pets, philosophy, political and current events, psychology and psychotherapy, reference, religion, science and nature, self-help and self improvement, sex and relationships, social sciences, sports and adventure, study guides and test preparation, travel, true crime, weddings and women's studies; lending and sharing of electronic books and other electronic publications; providing a website featuring non-downloadable electronic publications, namely, book reviews, news and web articles on children's books, various current events topics, events that occurred on this date in history, humor and blogs on electronic book readers and books; providing information on education and entertainment information via a web site; online publications, namely, blogs on electronic book readers, books, electronic publications, authors, news, children's books and humor; providing a website featuring non-downloadable electronic publications, namely, books, newspapers, and magazines on a variety of topics, namely, graphic novels, comics, picture books, teen fiction, horror and suspense, mystery and crime, music, movies, television, entertainment and popular culture, poetry, romance, school life, science fiction and fantasy, thrillers and westerns, African Americans, antiques and collectibles, art, architecture and photography, bibles and bible studies, biography, business and personal finances, Christianity, computers and technology, cookbooks, food and wine, crafts and hobbies, education and teaching, engineering, English, entertainment, foreign languages, games, gay and lesbian, health, diet and fitness, history, home and garden, humor, Judaism and Judaica, law, medical and medicine, military history, new age and spirituality, parenting and family, pets, philosophy, political and current events, psychology and psychotherapy, reference, religion, science and nature, self-help and self improvement, sex and relationships, social sciences, sports and adventure, study guides and test preparation, travel, true crime, weddings and women's studies; providing non-downloadable prerecorded music all on-line via a global computer network; entertainment services, namely,

providing temporary use of non-downloadable computer games in a variety of fields; Entertainment in the nature of providing online book reviews, personal recommendations and interviews with authors; providing a web site featuring information on books, book reviews, celebrities, publishing, entertainment news, book covers, book jacket designers, authors and book collectors; educational services, namely, providing interactive educational classes, seminars, conferences, lectures and workshops via a global computer information network in the fields of preschool, elementary, middle school, college and post-graduate subjects, namely, math, algebra, calculus, trigonometry, geometry, chemistry, organic chemistry, biology, microbiology, physics, astronomy, computer science, geology, history, psychology, philosophy, economics, film, health, art history, language, English, ESL, sign language, Spanish, French, Italian, German, Hebrew, Japanese, Chinese, Latin, law, anatomy, medicine, nursing, music, marketing, macroeconomics, accounting, mythology, women's studies, sociology, test preparation and SAT test preparation and distributing course materials in connection therewith; entertainment services, namely, an on-going multimedia series provided via a web site featuring information on books, book reviews and publishing and entertainment news, book covers, book jacket designers, authors and book collectors; book publishing services; online electronic publishing of e-books, magazines, newspapers, and other electronic publications in digital format;

Class 42 - Providing a website featuring non-downloadable computer software and applications for reading, purchasing, storing and sharing books and digital content on a variety of topics, namely, graphic novels, comics, picture books, teen fiction, horror and suspense, mystery and crime, music, movies, television, entertainment and popular culture, poetry, romance, school life, science fiction and fantasy, thrillers and westerns, African Americans, antiques and collectibles, art, architecture and photography, bibles and bible studies, biography, business and personal finances, Christianity, computers and technology, cookbooks, food and wine, crafts and hobbies, education and teaching, engineering, English, entertainment, foreign languages, games, gay and lesbian, health, diet and fitness, history, home and garden, humor, Judaism and Judaica, law, medical and medicine, military history, new age and spirituality, parenting and family, pets, philosophy, political and current events, psychology and psychotherapy, reference, religion, science and nature, self-help and self-improvement, sex and relationships, social sciences, sports and adventure, study guides and test preparation, travel, true crime, weddings and women's studies; providing periodic updates regarding portable electronic book readers and portable electronic book reader software, firmware, features and operating systems to subscribers by means of electronic mail; providing a web-based service featuring technology that enables users to manage the production and publication

of e-books, magazines, newspapers, and other electronic publications in digital format, hard and soft cover books and related digital content and offer them for sale to the general public; providing a web site featuring the ratings, reviews and recommendations on products and services for commercial purposes posted by users; and

Class 45 - Providing social networking websites for entertainment purposes.

The USPTO issued a registration for the mark on June 24, 2014 and the mark has been in continuous and exclusive use in Class 35 since at least as early as April 26, 1999 and in continuous and exclusive use in Class 09 since at least as early as November 7, 2011. Said Federal Registration is valid and subsisting.

17. Opposer is the owner, licensor or licensee of United States Trademark Registration No. 4,589,168 for the mark B&N for the following goods and services:

Class 09 - Downloadable electronic and digital publications in the nature of fiction and non-fiction books, audio books, children's books, magazines, newspapers, journals, periodicals, manuals, graphic novels, comics, picture books, reference magazines, study guides and test preparation books, and guidebooks on a variety of topics, namely, teen fiction, horror and suspense, mystery and crime, music, movies, television, popular culture, poetry, romance, school life, science fiction and fantasy, thrillers and westerns, African Americans, antiques and collectibles, art, architecture and photography, bibles and bible studies, biography, business and personal finances, Christianity, computers and technology, cookbooks, food and wine, crafts and hobbies, education and teaching, engineering, English, entertainment news, foreign languages, board games, computer games and video games, gay and lesbian, health, diet and fitness, history, home and garden, humor, Judaism and Judaica, law, medical diseases and medicine, military history, new age and spirituality, parenting and family, pets, philosophy, political and current events, psychology and psychotherapy, religion, science and nature, self-help and self-improvement, sex and relationships, social sciences, sports and outdoor adventures, travel, true crime, weddings and women's studies; portable electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers for reading, displaying, receiving, purchasing, sharing, lending, accessing and storing downloadable electronic publications, namely, books, e-books, magazines, newspapers, text, images, digital web site content and digital media, namely, digital audio, music, digital video and computer, video and mobile computer games and applications, all through wired and wireless

Internet access, accessories therefor and instructional manuals, sold as a unit; computer software for displaying, receiving, reading, purchasing, accessing and storing downloadable electronic publications, syncing electronic publications with portable electronic apparatus, loaning and sharing electronic publications with third parties and sampling electronic publications; downloadable computer software for displaying, receiving, reading and storing downloadable electronic publications and syncing electronic publications with portable electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers, loaning and sharing electronic publications with third parties and sampling electronic publications; computer software for use in reading, displaying, purchasing, sharing, lending and accessing electronic publications and digital media featuring books, newspapers, magazines, periodicals, digital images, web sites, music, games and other digital entertainment, and instructional manuals, sold as a unit; downloadable computer software for use in reading, displaying, purchasing, sharing, lending and accessing electronic publications and digital media featuring books, newspapers, magazines, digital images, web sites, music, games and other digital entertainment, and instructional manuals, sold as a unit; downloadable MP3 files, MP3 recordings, on-line discussion boards, webcasts, webinars and podcasts featuring music and news broadcasts; protective covers and cases for portable electronic book readers and portable handheld digital electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers; leather protective covers and cases for portable electronic book readers and portable handheld digital electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers; silicone, fabric and plastic protective sleeves and skins for portable electronic book readers and portable handheld digital electronic apparatus, namely, electronic book readers, handheld computers, mobile computers and tablet computers; carrying cases, holders, protective cases and stands featuring power supply connectors, adaptors, speakers and battery charging devices, specially adapted for use with handheld digital electronic devices; batteries, rechargeable electric batteries and battery chargers; power supplies and chargers for portable electronic apparatus; power supplies and chargers for portable electronic apparatus for use in vehicles; clear protective covers specially adapted for personal electronic devices; usb cables; downloadable music and electronic computer games and video games and applications via the internet and wireless devices; downloadable computer software and applications for reading, purchasing, storing and sharing books and digital content, including relating to business, education, entertainment, finance, games, health and fitness, lifestyle, medical, music, navigation, news, photography, productivity, reference, social networking, sports, travel, computer utilities, utilities and weather; digital web site content and digital media, namely, digital audio, music, digital video and computer, video and mobile computer games and

applications, all through wired and wireless internet access and portable electronic apparatus;

Class 35 - Book distributorship services; retail and online retail bookstore services, featuring books, text-books, used books, used text-books, magazines, compact discs, audio and video cassettes, digital video discs, computer software, computer and video games, posters, stationery, calendars, food, beverages, general giftware items and school supplies, namely, erasers, binders, presentation folders, notepads, writing paper pads, blank paper, ruled paper, loose-leaf paper, blank notebooks, markers, paper staplers, paper staple removers, desktop organizers, rubber stamps and ink pads, binder and paper clips, dispensers for adhesive tape for stationery or household purposes, pen and pencil holders, stationery cases and holders and file trays for desk accessories, book covers, book ends, book holders, book marks, book plates, paper weights for books, paper weights, push pins, paper clips, sketchbooks, scratch pads, address books, dry erase writing boards and writing surfaces, stick-on whiteboards and dry-erase boards; providing best seller lists and personal recommendations and gift ideas concerning books, magazines, music, software and general giftware; retail and online retail store services featuring downloadable electronic publications, namely, books, electronic books, magazines, articles, stories, newspapers, text, images, discount, rebate and special offer coupons and vouchers, coupons, vouchers, digital web site content and digital media in the nature of books, electronic books, magazines, articles, stories, newspapers, text, images, mobile computer, tablet and electronic reader applications, music and movies through wired and wireless Internet access; retail and online retail store services featuring portable electronic book readers, mobile and tablet computers and accessories for portable electronic book readers, mobile and tablet computers, namely, carrying cases, leather carrying cases, silicone, fabric and plastic sleeves and skins for electronic book readers, rechargeable batteries, book lights, protective film covers and combination book light and cover; customer support services, namely, providing assistance with activation and use of electronic book readers, downloading of electronic publications and online customer accounts; providing a web site for users with specific informed recommendations of specific consumer products and services validated by the inputted preferences and social network of the user; providing a web site for users with exclusive personalized recommendations on books, electronic books, authors, book subject matter, book genres, music and digital media entertainment; promoting the goods and services of others by providing a website featuring discounts, coupons, rebates, vouchers and special offers on books, magazines, newspapers, mobile computer, tablet and electronic reader apparatus and applications, music, videos and electronic publications, namely, electronic books, magazines and newspapers; providing consumer information on electronic book reader apparatus,

books, authors and electronic publications via a web site; providing consumer information and news on new book and electronic book releases, portable electronic book reader applications and features;

Class 38 - Providing one step online access to social networking sites on the internet and providing e-mail services, namely, access to email accounts; providing on-line forums, bulletin boards and chat rooms in the fields of books, electronic publications, magazines, newspapers, authors, publishing, electronic e-reader apparatus and related items; providing Internet access for downloads of books, magazines, newspapers and digital media on a variety of topics via a web site and providing wireless Internet access to in-store customers for browsing, sampling, loaning, sharing, lending, displaying, receiving, reading, downloading, purchasing and accessing electronic and digital publications in the nature and digital media and entertainment, namely, downloadable audio and video files featuring books, newspapers, magazines, journals, periodicals, manuals, guidebooks, digital images, music, games, computer games and computer applications, movies and television shows;

Class 41 - Online electronic publishing of books, electronic books, magazines, newspapers, text and images on a variety of topics, namely, graphic novels, comics, picture books, teen fiction, horror and suspense, mystery and crime, music, movies, television, entertainment and popular culture, poetry, romance, school life, science fiction and fantasy, thrillers and westerns, African Americans, antiques and collectibles, art, architecture and photography, bibles and bible studies, biography, business and personal finances, Christianity, computers and technology, cookbooks, food and wine, crafts and hobbies, education and teaching, engineering, English, entertainment, foreign languages, games, gay and lesbian, health, diet and fitness, history, home and garden, humor, Judaism and Judaica, law, medical and medicine, military history, new age and spirituality, parenting and family, pets, philosophy, political and current events, psychology and psychotherapy, reference, religion, science and nature, self-help and self-improvement, sex and relationships, social sciences, sports and adventure, study guides and test preparation, travel, true crime, weddings and women's studies; lending and sharing of electronic books and other electronic publications; providing a website featuring non-downloadable electronic publications, namely, book reviews, news and web articles on children's books, various current events topics, events that occurred on this date in history, humor and blogs on electronic book readers and books; providing information on education and entertainment information via a web site; online publications, namely, blogs on electronic book readers, books, electronic publications, authors, news, children's books and humor; providing a website featuring non-downloadable electronic publications, namely, books, newspapers, and magazines on a variety of topics, namely, graphic novels, comics, picture

books, teen fiction, horror and suspense, mystery and crime, music, movies, television, entertainment and popular culture, poetry, romance, school life, science fiction and fantasy, thrillers and westerns, African Americans, antiques and collectibles, art, architecture and photography, bibles and bible studies, biography, business and personal finances, Christianity, computers and technology, cookbooks, food and wine, crafts and hobbies, education and teaching, engineering, English, entertainment, foreign languages, games, gay and lesbian, health, diet and fitness, history, home and garden, humor, Judaism and Judaica, law, medical and medicine, military history, new age and spirituality, parenting and family, pets, philosophy, political and current events, psychology and psychotherapy, reference, religion, science and nature, self-help and self-improvement, sex and relationships, social sciences, sports and adventure, study guides and test preparation, travel, true crime, weddings and women's studies; providing non-downloadable prerecorded music all on-line via a global computer network; entertainment services, namely, providing temporary use of non-downloadable computer games in a variety of fields; entertainment in the nature of providing online book reviews, personal recommendations and interviews with authors; providing a web site featuring information on books, book reviews, celebrities, publishing, entertainment news, book covers, book jacket designers, authors and book collectors; educational services, namely, providing interactive educational classes, seminars, conferences, lectures and workshops via a global computer information network in the fields of preschool, elementary, middle school, college and post-graduate subjects, namely, math, algebra, calculus, trigonometry, geometry, chemistry, organic chemistry, biology, microbiology, physics, astronomy, computer science, geology, history, psychology, philosophy, economics, film, health, art history, language, English, ESL, sign language, Spanish, French, Italian, German, Hebrew, Japanese, Chinese, Latin, law, anatomy, medicine, nursing, music, marketing, macroeconomics, accounting, mythology, women's studies, sociology, test preparation and SAT test preparation and distributing course materials in connection therewith; entertainment services, namely, an on-going multimedia series provided via a web site featuring information on books, book reviews and publishing and entertainment news, book covers, book jacket designers, authors and book collectors; book publishing services; online electronic publishing of e-books, magazines, newspapers, and other electronic publications in digital format;

Class 42 - Providing a website featuring non-downloadable computer software and applications for reading, purchasing, storing and sharing books and digital content on a variety of topics, namely, graphic novels, comics, picture books, teen fiction, horror and suspense, mystery and crime, music, movies, television, entertainment and popular culture, poetry, romance, school life, science fiction and fantasy, thrillers and

westerns, African Americans, antiques and collectibles, art, architecture and photography, bibles and bible studies, biography, business and personal finances, Christianity, computers and technology, cookbooks, food and wine, crafts and hobbies, education and teaching, engineering, English, entertainment, foreign languages, games, gay and lesbian, health, diet and fitness, history, home and garden, humor, Judaism and Judaica, law, medical and medicine, military history, new age and spirituality, parenting and family, pets, philosophy, political and current events, psychology and psychotherapy, reference, religion, science and nature, self-help and self-improvement, sex and relationships, social sciences, sports and adventure, study guides and test preparation, travel, true crime, weddings and women's studies; providing periodic updates regarding portable electronic book readers and portable electronic book reader software, firmware, features and operating systems to subscribers by means of electronic mail; providing a web-based service featuring technology that enables users to manage the production and publication of e-books, magazines, newspapers, and other electronic publications in digital format, hard and soft cover books and related digital content and offer them for sale to the general public; providing a web site featuring the ratings, reviews and recommendations on products and services for commercial purposes posted by users; and

Class 45 – Providing social networking websites for entertainment purposes.

The USPTO issued a registration for the mark on August 19, 2014 and the mark has been in continuous and exclusive use in Class 35 since at least as early as April 26, 1999 and in continuous and exclusive use in Class 09 since at least as early as October 31, 2009. Said Federal Registration is valid and subsisting.

18. Opposer is the owner, licensor or licensee of United States Trademark Registration No. 2,915,318 for the mark BARNSIE "THE NOBLE BEAR" for "toys and games, namely, plush toys, plush animals, stuffed animals and dolls," in International Class 28. The USPTO issued a registration for the mark on December 28, 2004 and the mark has been in continuous and exclusive use since November 30, 2003. Said Federal Registration is valid and subsisting and is now incontestable in accordance with Section 33(b) of the Trademark Act, 15 U.S.C. § 1115(b). Said Federal Registration

has been renewed in accordance with Section 9 of the Trademark Act, 15 U.S.C. § 1059.

19. In addition to the aforesaid registered marks, Opposer owns several additional registrations and pending applications, the dominant portion of which are the designations "NOBLE," and/or "BARNES & NOBLE" including, but not limited to, the following:

- a. NOBLE – U.S. Application Serial No. 86890869, filed on January 29, 2016, for "stuffed and plush toys, namely, a stuffed and plush dog," in International Class 28.
- b. BARNES & NOBLE RECOMMENDS – U.S. Registration No. 4,672,100, issued on January 13, 2015 for "retail and online retail store services featuring electronic and digital books, magazines, newspapers, music, videos and computer software and applications; promoting and marketing the goods and services of others by distributing coupons, vouchers, discount, rebates, special advertising offers and downloadable digital web site content in the nature of downloadable electronic and digital books, magazines, newspapers, music, videos and computer software and applications via web pages, e-mail and text messages; retail and online retail store services featuring electronic book readers, computers, tablet computers, mobile hand-held computing apparatus, namely, smart phones, cellular phones and mobile phones, and portable hand-held apparatus, namely, digital media players and accessories therefor, namely, carrying cases, leather carrying cases, silicone cases, fabric and plastic sleeves and skins for electronic book readers, rechargeable batteries, book lights, protective film covers and combination book light and book cover; providing a web-based system and online portal for providing users with informed suggestions of consumer products and services validated by the inputted preferences and social network of the user and providing users with exclusive personalized suggestions on books, electronic books, authors, book subject matter, book genres, music, videos and digital media entertainment all for commercial purposes," in International Class 35 and "book and reading club services and on-line book and reading club services, namely, arrangement and formation of social events, get-togethers, and parties for club members; book and reading club services and on-line book and reading club services, providing a web-based system and online portal for providing users with informed suggestions of consumer products and services validated by the inputted preferences and

social network of the user and providing users with exclusive personalized suggestions on books, electronic books, authors, book subject matter, book genres, music, videos and digital media entertainment all for non-business and non-commercial transactions and purposes, but for entertainment and educational purposes,” in International Class 41.

- c. BARNES & NOBLE REDISCOVERS – U.S. Registration No. 3,739,532, registered on January 19, 2010 for “series of fiction and non-fiction books on a variety of topics, namely, history, literature, philosophy, religion, the arts and science,” in International Class 16.

20. In addition to the aforesaid registered marks, Opposer owns common law rights to numerous marks, the dominant portion of which is the "BARNES & NOBLE" including the following: BARNES & NOBLE, BARNES & NOBLE BOOKS, BARNES & NOBLE BOOKSELLERS, BARNES & NOBLE CLASSICS, BARNES & NOBLE JR., BARNES & NOBLE.COM and BARNESANDNOBLE.COM. These marks have been used in connection with the sale of products and the rendering of services, including the sale of toys, games, computer games, electronic products and educational products.

21. In addition to the aforesaid registered marks, Opposer owns numerous registered marks for toys and games, including the following:

- a. ESPARI – U.S. Registration No. 4,682,913, for “toys and games, namely, dolls, doll clothing, doll costumes, doll accessories, doll shoes, doll hair accessories, doll playsets, doll houses, doll house furnishings and doll cases; toy action figures and accessories therefor,” in International Class 28. The USPTO issued a registration for the mark on February 3, 2015 and the mark has been in continuous and exclusive use in Class 28 since at least as early as November 7, 2014. Said Federal Registration is valid and subsisting.
- b. MARNIE – U.S. Registration No. 4,712,528, for “toys and games, namely, dolls, doll clothing, doll accessories, doll costumes, doll shoes and doll hair accessories,” in International Class 28. The USPTO issued a registration for the mark on March 31, 2015 and the mark has been in continuous and exclusive use in Class 28 since at least as early as November 7, 2014. Said Federal Registration is valid and subsisting.

- c. KAYUMI – U.S. Registration No. 4,712,530, for “toys and games, namely, dolls, doll clothing, doll accessories, doll costumes, doll shoes and doll hair accessories,” in International Class 28. The USPTO issued a registration for the mark on March 31, 2015 and the mark has been in continuous and exclusive use in Class 28 since at least as early as November 7, 2014. Said Federal Registration is valid and subsisting.
- d. LILY RIA – U.S. Registration No. 4,712,531, for “toys and games, namely, dolls, doll clothing, doll accessories, doll costumes, doll shoes and doll hair accessories,” in International Class 28. The USPTO issued a registration for the mark on March 31, 2015 and the mark has been in continuous and exclusive use in Class 28 since at least as early as November 7, 2014. Said Federal Registration is valid and subsisting.
- e. ANNALYN – U.S. Registration No. 4,712,532, for “toys and games, namely, dolls, doll clothing, doll accessories, doll costumes, doll shoes and doll hair accessories,” in International Class 28. The USPTO issued a registration for the mark on March 31, 2015 and the mark has been in continuous and exclusive use in Class 28 since at least as early as November 7, 2014. Said Federal Registration is valid and subsisting.
- f. MIRIELLE – U.S. Registration No. 4,833,769, for “toys and games, namely, dolls, doll clothing, doll accessories, doll costumes, doll shoes and doll hair accessories,” in International Class 28. The USPTO issued a registration for the mark on October 13, 2015 and the mark has been in continuous and exclusive use in Class 28 since at least as early as February 6, 2015. Said Federal Registration is valid and subsisting.
- g. WOBBLIO – U.S. Registration No. 4,961,028, for “Toys and games, namely, wooden toy vehicles and accessories for toddlers, preschoolers and young children,” in International Class 28. The USPTO issued a registration for the mark on May 17, 2016 and the mark has been in continuous and exclusive use in Class 28 since at least as early as December 14, 2015. Said Federal Registration is valid and subsisting.

22. Opposer owns numerous domain names incorporating the terms "BARNES & NOBLE, B&N and BN, including, but not limited to, <barnesandnoble.com>; <barnesnoble.com>; and numerous variations that incorporate the "BARNES & NOBLE" designation, including domains names that incorporate typographical mistakes.

23. Opposer owns the domain names <barnesandnoble.com> which registered on August 10, 1995 and <bn.com> which registered on October 18, 1994.

24. Opposer also uses BARNESANDNOBLE.COM as marks and domain names in connection with the operation of web sites that provide on-line shopping and information services. All of the domain names listed immediately above link directly to the BN.COM web site. Opposer actively promotes the <barnesandnoble.com> web site to encourage potential Internet customers to visit the site and take advantage of its product and information offerings, including, but not limited to, toys, games, computer games, computer products, electronic book readers and electronic accessories and educational products and services.

25. The wide variety of products and services promoted, sold, or offered for sale under Opposer's Family of "BARNES & NOBLE" marks have been commercially promoted, sold, and rendered throughout the United States by Opposer with skill and care. Opposer has expended large sums of money to maintain the quality of the products and services through the careful selection and careful methods used in the commercial promotion and sale of its goods and services under Opposer's Family of "BARNES & NOBLE" marks. As a result, the sales of goods and services under Opposer's family of "BARNES & NOBLE" marks have grown tremendously.

26. Opposer's family of "BARNES & NOBLE" marks have been, and are continuously being, applied to numerous and various products and services. Opposer uses these marks on labeling and/or packaging for products, as well as used in extensive nationwide advertising and promotional campaigns of Opposer's products, services, and businesses.

27. Opposer, by virtue of its efforts, and the expenditure of considerable sums for advertising, marketing and promotional activities, and by virtue of the excellence of its products and services, has developed an exceedingly valuable goodwill and reputation with respect to its Family of "BARNES & NOBLE" marks.

28. Opposer's Family of "BARNES & NOBLE" marks, by virtue of Opposer's efforts in selling and distributing goods and services bearing such marks, and through Opposer's substantially exclusive and continuous use of such marks in commerce since March 1975, has become distinctive of the goods and services listed above.

29. By reason of the extensive advertising, promotion and sale of Opposer's Family of "BARNES & NOBLE" products and services, the family of "BARNES & NOBLE" marks have acquired, and now enjoy, fame, distinctiveness, and substantial secondary meaning signifying Opposer's products and services. Opposer now owns valuable goodwill that is symbolized by the family of "BARNES & NOBLE" marks.

30. The Opposer and its predecessors in title have used the marks incorporating BARNES & NOBLE in various forms and iterations in commerce on or in connection with retail store services, since at least as early as March 1975.

31. Opposer has used and is now using its Family of "BARNES & NOBLE" marks in commerce on or in connection with the goods and services listed above. This use has been valid and continuous and has not been abandoned.

32. Applicant seeks to register the mark "NOBLE GAMING & DESIGN" for use in connection with "On-line retail store services featuring a wide variety of consumer goods of others; On-line retail store services featuring downloadable computer, video and electronic games; On-line retail store services featuring new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; promoting the sale of goods of others through the administration of a customer incentive award and discount program featuring discounts on new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; Operation of gaming equipment and gaming systems in the gambling industry for others for business purposes; Retail consignment stores featuring new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; promoting the sale of goods of others through the administration of a customer incentive award and discount program featuring discounts on new and used computer, video and electronic

games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; Retail consignment stores in the field of new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; promoting the sale of goods of others through the administration of a customer incentive award and discount program featuring discounts on new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; Retail store services featuring new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; promoting the sale of goods of others through the administration of a customer incentive award and discount program featuring discounts on new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; Retail stores featuring new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and

recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures; promoting the sale of goods of others through the administration of a customer incentive award and discount program featuring discounts on new and used computer, video and electronic games, video game consoles, hand-held video game players, digital media players and recorders, videos, DVDs, movies, role-playing cards, game cards, books, magazines, strategy guides, computer hardware, computer accessories, toys and action figures," in International Class 35.

33. There is no issue as to priority. Upon information and belief, Applicant has not made any use in interstate commerce or commerce with the United States of the mark "NOBLE GAMING & DESIGN" in connection with the goods identified in U.S. Application Serial No. 86/725,370 prior to Applicant's date of first use and first use in commerce, namely, June 3, 2015, which date is long after Opposer's date of first use in commerce of the mark BARNES & NOBLE and Family of "BARNES & NOBLE" marks.

34. The dominant portion of Applicant's mark "NOBLE GAMING & DESIGN" is the words "NOBLE" with the term "GAMING" generic and the design portion having limited distinctiveness.

35. Applicant's mark "NOBLE GAMING & DESIGN" is confusingly similar in sound, appearance and/or meaning to Opposer's Family of "BARNES & NOBLE" marks.

36. Opposer uses the Family of "BARNES & NOBLE" marks in connection with various goods and services, including the sale of toys, games, computer games,

computer products, electronic book readers and electronic accessories and electronic products.

37. Upon information and belief, Applicant uses the mark "NOBLE GAMING & DESIGN" on and in connection with services that are similar and related to those offered by Opposer under Opposer's Family of "BARNES & NOBLE" marks.

38. Upon information and belief, Applicant intends to offer and offers goods and services in whole or in part within the same channels of trade and to the same class of purchasers as Opposer, namely, purchasers of toys, games, computer games and related electronic products.

39. Opposer believes and alleges that when Applicant "NOBLE GAMING & DESIGN" in connection with the services listed in Application Serial No. 86/725,370, consumers are likely to believe that the services originate with, are sponsored by or affiliated with, Opposer.

40. Applicant's use and registration of the mark "NOBLE GAMING & DESIGN" for the services identified in Application Serial No. 86/725,370 will enable Applicant to trade upon and utilize the goodwill established by Opposer in its Family of "BARNES & NOBLE" marks.

41. Opposer believes and alleges that Applicant's mark when used on or in connection with the services identified in Application Serial No. 86/725,370 is likely to cause confusion or mistake or to deceive and will deceive and mislead the public and/or potential clients into believing that Applicant is licensed or controlled by Opposer or that Applicant is in some way related to Opposer.

42. If the Applicant is permitted to use and register its mark for its services, as specified in the application herein opposed, confusion in trade resulting in damage and injury to the Opposer would be caused and would result by reason of the similarity between the Applicant's mark and the Opposer's mark. Persons familiar with Opposer's marks would be likely to purchase or make use of Applicant's services thinking such services are related to Opposer's goods and services. Any such confusion in trade inevitably would result in loss of sales and business opportunities under the mistaken belief that such services are offered by or connected with Opposer. Furthermore, any defect, objection or fault found with Applicant's services marketed and performed under its mark "NOBLE GAMING & DESIGN" would necessarily reflect upon and seriously injure the reputation that the Opposer has established for its products and services merchandised, sold and distributed under its Family of "BARNES & NOBLE" marks.

43. If the Applicant is granted the registration herein opposed, it would thereby obtain at least a prima facie exclusive right to the use of its mark. Such registration would be a source of damage and injury to the Opposer, as well as confusion in the relevant marketplace.

44. In view of the similarity in overall commercial impression of the respective marks, the related nature of the goods and services of the respective parties, and Opposer's priority as to use of the mark, Opposer alleges that Applicant's mark "NOBLE GAMING & DESIGN" so resembles Opposer's Family of "BARNES & NOBLE" marks as to be likely to cause confusion, or mistake, or to deceive under Trademark Act Sections 2(d) and 43(a), 15 U.S.C. Sections 1052(d) and 1125(a), and will cause damage to Opposer and its goodwill represented by its prior used marks.

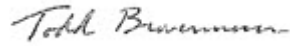
45. In addition, Opposer's rights and fame in its Family of "BARNES & NOBLE" marks, including those based on its extensive use, registrations and public recognition, were established long before Applicant filed the application for "NOBLE GAMING & DESIGN" or commenced use of the mark in commerce. Thus, granting registration to Applicant would diminish and dilute the distinctive quality of Opposer's rights in its family of famous "BARNES & NOBLE" and Family of "BARNES & NOBLE" marks in violation of Trademark Act Section 43(c), 15 U.S.C. Section 1125(c), and could also, in the event of any mishaps involving, or poor quality of, the services offered by Applicant, tarnish such distinctiveness.

46. A duplicate service copy of this Notice of Opposition is being mailed via regular mail, postage pre-paid to Applicant, Noble, Inc., a New Mexico corporation, located at 8216 Montgomery Blvd. NE, Albuquerque, NM, 87109 and the required Notice of Opposition fee is submitted herewith.

WHEREFORE, the Opposer prays that the application Serial No. 86/725,370 be rejected, that the mark therein sought for the services therein specified in International Class 35 be denied and refused and that this opposition be sustained in favor of Opposer.

Respectfully submitted,

PEARL COHEN ZEDEK LATZER BARATZ LLP
Attorneys for Opposer



By: _____

Todd Braverman
1500 Broadway, 12th Floor
New York, New York 10036
(646) 878-0820

Date: June 6, 2016

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BARNES & NOBLE, INC. AND	:
BARNES & NOBLE BOOKSELLERS, INC.	:
	: Opposition No.
	: Application Serial No. 86/725,370
	: Mark: NOBLE GAMING & DESIGN
Opposer,	:
	:
	:
v.	:
	:
	:
NOBLE, INC.	:
	:
Applicant.	:
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I hereby certify that a copy of the foregoing "NOTICE OF OPPOSITION" was mailed via regular mail, postage prepaid, to Applicant, Noble, Inc., a New Mexico corporation, located at 8216 Montgomery Blvd. NE, Albuquerque, NM, 87109, with an e-mail copy to Joanna Y. Tsai, counsel for Applicant, at <jyt@jytlaw.com>, on this 6th day of June, 2016.

Todd Breuninger

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